

EXHIBIT

B

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

1

1 UNITED STATES DISTRICT COURT
 2 DISTRICT OF MINNESOTA
 3 -----
 4 In Re:
 5 Bair Hugger Forced Air Warming
 6 Products Liability Litigation
 7
 8 This Document Relates To:
 9 All Actions MDL No. 15-2666 (JNE/FLM)
 10 -----
 11
 12
 13 DEPOSITION OF ANTONIA B. HUGHES
 14 VOLUME I, PAGES 1 - 189
 15 AUGUST 3, 2017
 16
 17
 18 (The following is the deposition of ANTONIA
 19 B. HUGHES, taken pursuant to Notice of Taking
 20 Deposition, via videotape, at the Hausfeld law firm,
 21 1700 K Street Northwest, Suite 650, in the City of
 22 Washington, District of Columbia, commencing at
 23 approximately 10:05 o'clock a.m., August 3, 2017.)
 24
 25

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3

1 PROCEEDINGS
 10:05:47 2 (Witness sworn.)
 3 ANTONIA B. HUGHES,
 4 Called as a witness, being first
 5 duly sworn, was examined and
 6 testified as follows:
 7 EXAMINATION
 8 BY MR. ASSAAD:
 10:06:04 9 Q. Can you please state your name?
 10:06:05 10 A. Antonia B Hughes.
 10:06:13 11 Q. What's your current address?
 10:06:14 12 A. 11 Carvel Circle, Edgewater, Maryland 21037.
 10:06:20 13 Q. Have you ever had your deposition taken
 10:06:22 14 before?
 10:06:22 15 A. Once.
 10:06:23 16 Q. Approximately how long ago?
 10:06:26 17 A. Five-ish years.
 10:06:29 18 Q. And was it as an expert in a case?
 10:06:32 19 A. Yes.
 10:06:33 20 Q. What kind of case was it?
 10:06:36 21 A. A medical malpractice case.
 10:06:43 22 Q. All right. And where was the case located?
 10:06:46 23 A. I believe it was Montgomery County here in
 10:06:48 24 -- It was here in Maryland, Montgomery County.
 10:06:51 25 Q. Were you -- Were you an expert for the

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2

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 13 ALSO PRESENT:
 14 Ronald M. Huber, Videographer
 Angel Dorsey, Hausfeld Law Firm
 15
 16 EXAMINATION INDEX
 WITNESS EXAMINED BY PAGE
 16 Ms. Hughes Mr. Assaad 3, 184
 17 Ms. Lewis 181
 18 EXHIBIT INDEX
 DESCRIPTION PAGE
 19 Hughes
 1 Letter report, Hughes to Lewis, 22
 June 1, 2017, 7 pgs.
 20 2 Subpoena for production to Antonia 38
 Hughes, 6/7/2017, 8 pgs.
 21 3 CV, Antonia B. Hughes, 3 pgs. 42
 4 Statements, Hughes to Blackwell 99
 22 Burke, May and June 2017, 2 pgs.
 23 5 Expert Report of Dr. Michael J. 177
 Stonnington, 11 pgs.

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4

10:06:53 1 plaintiff or the defense?
 10:06:58 2 A. Not -- The plaintiff is the one asking for
 10:07:01 3 injuries?
 10:07:01 4 Q. Yes.
 10:07:01 5 A. No. For the defense.
 10:07:04 6 Q. Do you recall who the attorneys were?
 10:07:05 7 A. No.
 10:07:06 8 Q. Do you recall the name of the case?
 10:07:08 9 A. No.
 10:07:10 10 Q. Did you testify -- Did you actually --
 10:07:13 11 Did you testify at trial?
 10:07:13 12 A. No. It was dismissed before trial.
 10:07:16 13 Q. Was it dismissed, or settled, or you don't
 10:07:19 14 know?
 10:07:20 15 A. I don't know. I was informed that the case
 10:07:21 16 had been resolved and to destroy the records.
 10:07:24 17 Q. Okay. Do you recall any of the attorneys in
 10:07:29 18 the case?
 10:07:30 19 A. No.
 10:07:38 20 Q. Well I'm going to go through a few rules
 10:07:40 21 regarding this deposition just so we're all on the
 10:07:41 22 same page. You understand?
 10:07:42 23 A. Okay.
 10:07:43 24 Q. I'm going to ask you numerous questions
 10:07:45 25 today about your opinions. If you don't understand my

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10:07:48 **1** question, please let me know. Fair?

10:07:50 **2** **A.** Yes.

10:07:51 **3** **Q.** If you answer the question that I ask, I'll

10:07:53 **4** assume that you understood the question. Fair?

10:07:54 **5** **A.** Yes.

10:07:56 **6** **Q.** At any time you want to take a break, that's

10:07:57 **7** fine, but I ask that you only request a break after

10:08:00 **8** you answer a pending question. Fair?

10:08:02 **9** **A.** Okay. Yes.

10:08:07 **10** **Q.** And at any time that you -- that -- during

10:08:10 **11** the deposition you realize that a ques -- answer you

10:08:15 **12** gave me was incorrect or incomplete, or you want to

10:08:18 **13** add something, just please let me know and we can

10:08:21 **14** always go back. Fair?

10:08:22 **15** **A.** Yes.

10:08:23 **16** **Q.** And you're doing a good job by answering

10:08:25 **17** verbally, but please don't just shake your head or go

10:08:31 **18** hmm-umm or uh-huh because it's very difficult for the

10:08:33 **19** court reporter to -- to transcribe, and that's all we

10:08:36 **20** have here is the transcription of the deposition. You

10:08:38 **21** understand?

10:08:38 **22** **A.** Yes.

10:08:39 **23** **Q.** And you're also doing a very good job by

10:08:42 **24** waiting for me to finish my question before you answer

10:08:44 **25** and so we don't talk over each other, because that's

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10:08:47 **1** also difficult for the court reporter. Fair?

10:08:48 **2** **A.** Yes.

10:08:50 **3** **Q.** Okay. With respect to the deposition you

10:09:01 **4** did five years ago, what were the issues in that case?

10:09:04 **5** **A.** It was issues of whether or not a medical

10:09:07 **6** test that had been performed were -- the results were

10:09:11 **7** given to the surgeon in a timely manner.

10:09:13 **8** **Q.** Okay. What medical tests?

10:09:17 **9** **A.** It was a chest x-ray.

10:09:21 **10** **Q.** Was it a wrongful death case?

10:09:23 **11** **A.** The patient subsequently died, but she was

10:09:26 **12** not deceased during the time that I was --

10:09:26 **13** **Q.** And what was --

10:09:31 **14** **A.** Involved.

10:09:32 **15** **Q.** Sorry.

10:09:32 **16** What was the alleged misdiagnosis?

10:09:41 **17** **A.** Lung cancer.

10:09:44 **18** **Q.** Do you recall what hospital?

10:09:46 **19** **A.** No.

10:09:47 **20** **Q.** Was it, like, Shady Grove?

10:09:50 **21** **A.** I -- I don't remember if it was Shady Grove

10:09:52 **22** or Holy Cross, it was -- I don't -- truly don't

10:09:55 **23** remember.

10:09:56 **24** **Q.** And you're a Registered Nurse?

10:10:14 **25** **A.** Yes.

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10:10:15 **1** **Q.** And why don't you -- if you can briefly go

10:10:18 **2** through your educational background?

10:10:20 **3** **A.** Okay. I graduated from a nursing diploma

10:10:24 **4** program in 1974, became certified in operating room

10:10:28 **5** nursing in 1983, and have maintained that

10:10:30 **6** certification. I received my Bachelor's of Nursing

10:10:34 **7** from the college of Notre Dame in 1995, and my

10:10:38 **8** Master's of Arts in administration at the college of

10:10:42 **9** Notre Dame. Both of those are in Baltimore.

10:10:47 **10** **Q.** You received your bachelor's in nursing in

10:10:50 **11** --

10:10:50 **12** **A.** Yes.

10:10:50 **13** **Q.** -- 1995?

10:10:51 **14** **A.** Yes.

10:10:52 **15** **Q.** Okay. And so what did you receive in 1974?

10:10:54 **16** **A.** A diploma in nursing. It was a different

10:10:57 **17** type of nursing curriculum, it was a three-year

10:11:01 **18** program --

10:11:02 **19** **Q.** Okay.

10:11:02 **20** **A.** -- with some college credits and some

10:11:04 **21** clinical.

10:11:05 **22** **Q.** But you became a Registered Nurse in 19 --

10:11:07 **23** after you finished in 1974?

10:11:09 **24** **A.** Yes.

10:11:09 **25** **Q.** Okay. Why did you decide to go back to

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10:11:11 **1** college to get your bachelor's in nursing?

10:11:13 **2** **A.** Good question. I wanted some different

10:11:15 **3** opportunities.

10:11:15 **4** **Q.** Okay. And I take it you needed your

10:11:18 **5** bachelor's to go receive a master's?

10:11:20 **6** **A.** Yes.

10:11:21 **7** **Q.** Did you go straight through from your

10:11:26 **8** Bachelor's of Science in nursing to your Master's of

10:11:29 **9** Arts in management?

10:11:30 **10** **A.** I had about a year off.

10:11:32 **11** **Q.** And during that time were you continually

10:11:34 **12** employed as a nurse?

10:11:35 **13** **A.** Yes. I was full-time employed all of the

10:11:37 **14** time I was in school.

10:11:38 **15** **Q.** And where were you employed?

10:11:40 **16** **A.** At that time, Anne Arundel Medical Center in

10:11:42 **17** Annapolis.

10:11:43 **18** **Q.** And you also mentioned in 1983 you became a

10:11:47 **19** -- a certified operating room nurse?

10:11:50 **20** **A.** Yes.

10:11:51 **21** **Q.** What does that entail?

10:11:52 **22** **A.** The initial certification is an exam based

10:11:57 **23** on current practices in OR nursing and patient case

10:12:03 **24** care -- care scenarios.

10:12:08 **25** **Q.** So after that period of time did you mostly

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10:12:12 **1** work in an operating room?

10:12:13 **2** **A.** Yes. The whole time.

10:12:16 **3** **Q.** And that would be at Anne Arundel County?

10:12:19 **4** **A.** No. I worked at Anne Arundel for 15 years,

10:12:22 **5** then I went to Hopkins Bayview, then I went to Calvert

10:12:25 **6** Memorial down in Prince Frederick, and then went to

10:12:28 **7** Baltimore Washington Medical Center.

10:12:31 **8** (Interruption by the reporter.)

10:12:32 **9** **A.** Baltimore Washington Medical Center in Glen

10:12:33 **10** Burnie.

10:12:34 **11** **Q.** Okay. Tell me more about your certification

10:12:37 **12** for an operating room nurse. What does that entail?

10:12:39 **13** **A.** It's -- You need two years of eligibility,

10:12:42 **14** which means you need to have been employed as an OR

10:12:45 **15** nurse for at least two years. And other than that you

10:12:48 **16** need to be a Registered Nurse. And other than that it

10:12:52 **17** is a preparation, studying, reviewing case studies.

10:12:57 **18** And the organization that administers the test gives

10:13:03 **19** prep courses and gives you ideas of what material

10:13:06 **20** should be studied. It's material about generic

10:13:10 **21** nursing, what would a nurse do, but also specific to

10:13:14 **22** the OR.

10:13:15 **23** **Q.** Okay. So let's get into more specifics

10:13:17 **24** about that.

10:13:17 **25** **A.** Okay.

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10:13:18 **1** **Q.** What would be the curricula with respect to

10:13:24 **2** what are the materials that you would be looking at or

10:13:26 **3** asked to be studying in preparation --

10:13:26 **4** **A.** One of them is --

10:13:27 **5** **Q.** -- in preparation of the exam?

10:13:28 **6** **A.** Okay. One is a textbook called Alexander's

10:13:33 **7** Care of the Patient in Surgery. Another would be the

10:13:37 **8** current Guidelines to Perioperative Practice, which is

10:13:42 **9** published by AORN. Another is Berry & Kohn's, trying

10:13:50 **10** to remember the title, I think it's Surgical Care.

10:13:54 **11** Don't quote me on that title, but it's Berry & Kohn's

10:13:57 **12** is another textbook that's a good basis for

10:14:00 **13** certification review. They also have flash cards,

10:14:02 **14** they also have test questions online to help you look

10:14:06 **15** at the format of the questions.

10:14:07 **16** **Q.** And what are the subject areas that you're

10:14:09 **17** looking at?

10:14:16 **18** **A.** Preoperative nursing, intraoperative

10:14:20 **19** nursing, some equipment questions, some holistic

10:14:25 **20** questions about materials management, hospital

10:14:28 **21** administration, staffing, budgets. Some questions on

10:14:35 **22** cultural diversity, and some -- I think that's the --

10:14:43 **23** I'm trying to remember the breakdown. It's like a

10:14:45 **24** breakdown of five categories, but I don't have that in

10:14:47 **25** my head.

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10:14:48 **1** **Q.** Okay. And with respect to equipment, what

10:14:50 **2** equipment would you be asked to --

10:14:50 **3** **A.** Things about --

10:14:53 **4** **Q.** -- look at?

10:14:54 **5** **A.** Things about positioning, safely positioning

10:14:57 **6** the patient.

10:14:57 **7** **Q.** Is that equipment, or is that some -- would

10:14:59 **8** that be more of patient care?

10:15:00 **9** **A.** Both.

10:15:01 **10** **Q.** Okay.

10:15:01 **11** **A.** It would be both, truly.

10:15:03 **12** If a patient has a fracture you need to know

10:15:05 **13** how to safely use the fracture table, that would be an

10:15:08 **14** equipment, but then also position the patient safely

10:15:11 **15** so that they don't have any skin or neurological

10:15:15 **16** injuries being positioned on that table.

10:15:18 **17** **Q.** What other equipment?

10:15:21 **18** **A.** An overview of an anesthesia machine, how to

10:15:23 **19** supply -- not to administer anesthesia, but how to

10:15:27 **20** administer oxygen. There's usually another oxygen

10:15:31 **21** port, and in an emergency you'd need to know where

10:15:34 **22** that's located to support a patient.

10:15:37 **23** **Q.** Did you go into the different types of

10:15:39 **24** patient-warming devices?

10:15:41 **25** **A.** I would say no. They talk --

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10:15:43 **1** Patient-warming devices would be in more on

10:15:47 **2** hypothermia and how to prevent hypothermia.

10:15:49 **3** **Q.** Is that part of the OR certification?

10:15:51 **4** **A.** It would be a question like what are SCIP

10:15:54 **5** guidelines. SCIP guidelines are antibiotics timing,

10:16:01 **6** normothermia, blood glucose monitoring, not shaving

10:16:06 **7** the patient, but clipping, the bathing of the patient

10:16:11 **8** pre-op. Those are the things all sort of encompassed

10:16:14 **9** in the SCIP guidelines.

10:16:16 **10** **Q.** I understand that, but were the SCIP

10:16:19 **11** guidelines with --

10:16:19 **12** **A.** Would they be --

10:16:20 **13** **Q.** -- normothermia were there in 1983?

10:16:23 **14** **A.** In nineteen -- Are you asking me about my

10:16:25 **15** test from nineteen --

10:16:26 **16** **Q.** Oh yeah.

10:16:26 **17** **A.** Oh, I can't remember my test from 1983.

10:16:29 **18** **Q.** But I'm looking at the subject areas.

10:16:31 **19** **A.** Oh, the subject areas would be similar, but

10:16:33 **20** the equipment, I don't know that we were talking about

10:16:36 **21** hypothermia in 1983.

10:16:38 **22** **Q.** Okay.

10:16:40 **23** **A.** I -- I misunderstood. I thought you meant

10:16:42 **24** current.

10:16:43 **25** **Q.** And I'm looking at what you --

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10:21:09 **1** no.

10:21:09 **2** **Q.** Okay. So roughly speaking between 2000 and

10:21:12 **3** 2015, approximately how many times a year would you be

10:21:17 **4** involved as --

10:21:18 **5** **A.** Depending on --

10:21:22 **6** (Interruption by the reporter.)

10:21:22 **7** **Q.** -- as a nurse in an operating room in a

10:21:24 **8** non-supervisory role, actually doing work?

10:21:27 **9** **A.** So the question is from 2000 to 2015.

10:21:31 **10** **Q.** Yes.

10:21:32 **11** **A.** I don't know that I can pull out a number.

10:21:37 **12** **Q.** Was it like once a month, twice a month,

10:21:40 **13** once a year?

10:21:43 **14** **A.** Depending on the year, perhaps once a month.

10:21:46 **15** **Q.** Okay. And since 2000 to 2015, how often

10:21:51 **16** would you be involved as a nurse in a total hip or

10:21:54 **17** total knee arthroplasty?

10:21:56 **18** **A.** Is that the same question?

10:21:58 **19** **Q.** Well one was more general, in all types of

10:21:58 **20** --

10:22:01 **21** I assume you just didn't handle total hip or

10:22:04 **22** total knee; correct?

10:22:06 **23** **A.** Correct. But I misunderstood your first

10:22:09 **24** question.

10:22:10 **25** **Q.** Okay.

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10:22:10 **1** **A.** I thought you were asking about numbers of

10:22:12 **2** times I had done total knees or hips from 2000 to

10:22:16 **3** 2015.

10:22:17 **4** **Q.** Okay. So my understanding, based on your

10:22:19 **5** statement, is between 2000 and 2015 you were probably

10:22:22 **6** involved with one total knee or total hip arthroplasty

10:22:26 **7** per month.

10:22:26 **8** **A.** Correct.

10:22:27 **9** **Q.** Okay. What about overall all types of

10:22:30 **10** surgeries?

10:22:33 **11** **A.** Depending upon the month and the year,

10:22:35 **12** probably once a week.

10:22:37 **13** **Q.** Okay. And the rest of the time you were

10:22:41 **14** acting as a supervisor or an educator.

10:22:47 **15** **A.** Correct.

10:22:48 **16** **Q.** Okay. Now how long have you been an

10:23:06 **17** educator?

10:23:09 **18** **A.** Since 2007, so -- at full ti -- Well, no.

10:23:21 **19** Full time since 2007.

10:23:23 **20** **Q.** Okay. And as an educator, where are you an

10:23:29 **21** educator?

10:23:29 **22** **A.** Currently I'm an independent practitioner.

10:23:31 **23** **Q.** And what does that mean, "independent

10:23:33 **24** practitioner"?

10:23:33 **25** **A.** That means I do a contract with a facility

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19

10:23:37 **1** to coordinate, facilitate a course called Periop 101,

10:23:43 **2** which is an introductory course for nurses who are not

10:23:46 **3** familiar with the clinical environment in the OR.

10:23:49 **4** It's a six-month program. It has some didactic

10:23:54 **5** material provided by AORN, and then I provide the

10:23:59 **6** clinical experiences and hopefully put the two

10:24:01 **7** together for the individuals.

10:24:03 **8** **Q.** And what subjects are taught or what areas

10:24:04 **9** are taught in the Perioperative 101?

10:24:07 **10** **A.** I couldn't begin to list them. It's about

10:24:13 **11** 50 modules in the didactic, so to go through and name

10:24:18 **12** them, I -- I couldn't begin to do that.

10:24:22 **13** **Q.** Do you discuss --

10:24:23 **14** **A.** I would -- I would miss some.

10:24:24 **15** **Q.** Okay. But do you discuss normothermia?

10:24:28 **16** **A.** Yes.

10:24:29 **17** **Q.** Do you discuss patient prep?

10:24:33 **18** **A.** Yes. Not only discuss, but demonstrate and

10:24:39 **19** teach back.

10:24:39 **20** **Q.** Okay. Are there any modules with respect to

10:24:48 **21** different types of surgeries, such as surgeries

10:24:50 **22** pertaining to total hip or total knee?

10:24:52 **23** **A.** Yes.

10:24:57 **24** **Q.** Are total hip and total knee surgeries

10:25:00 **25** different than other surgeries?

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20

10:25:04 **1** **A.** The difference is the amount of traffic in

10:25:07 **2** the room. There are not extra individuals in the room

10:25:10 **3** other than the staff assigned to that room.

10:25:12 **4** **Q.** Why aren't there --

10:25:13 **5** Why is that?

10:25:15 **6** **A.** We want to decrease the traffic, potential

10:25:20 **7** door openings and closings, any unnecessary movement.

10:25:24 **8** **Q.** Why? If you know.

10:25:34 **9** **A.** The best answer is I've read that that will

10:25:37 **10** help with patient outcomes.

10:25:39 **11** **Q.** Why?

10:25:46 **12** **A.** It's not necessarily a why, but it's a

10:25:50 **13** literature suggests that if there is less movement and

10:25:55 **14** less door openings, the patient outcome will be

10:25:59 **15** improved.

10:26:01 **16** **Q.** I understand that's the literature, but

10:26:02 **17** what's your understanding as to the reason why that's

10:26:04 **18** the case; if you know?

10:26:06 **19** **A.** I don't, other than reading the literature,

10:26:08 **20** know.

10:26:09 **21** **Q.** Yeah, but what is -- I mean the literature

10:26:10 **22** just doesn't say --

10:26:11 **23** **A.** It's --

10:26:12 **24** **Q.** -- doesn't say, you know, less traffic or

10:26:13 **25** less opening of doors. Does it give a reason that

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21

10:26:16 **1** you're -- I mean, pretend I'm a student and I say,
 10:26:21 **2** okay, but why is it different for total hip and total
 10:26:23 **3** knee not to -- to have less traffic?
 10:26:25 **4** **A.** There is a prosthesis involved. This is not
 10:26:28 **5** just total hips and total knees, I will go back and
 10:26:31 **6** clarify your question. It's also for any patient
 10:26:33 **7** that's having a prostheses; whether it's a hernia
 10:26:37 **8** repair with mesh, a breast implant after
 10:26:40 **9** reconstruction. Any patient that will have a
 10:26:44 **10** potential for an -- a implant we want to be sure that
 10:26:48 **11** the traffic is to a minimum, --
 10:26:48 **12** **Q.** What is --
 10:26:51 **13** **A.** -- to decrease door openings. We want to
 10:26:54 **14** keep the positive pressure that's in the room going
 10:26:58 **15** and circulating the air as best as possible. When the
 10:27:02 **16** door opens and closes numerous times, that positive
 10:27:06 **17** pressure is disrupt -- potentially disrupted.
 10:27:08 **18** **Q.** But, so what? The temperature -- It's
 10:27:12 **19** disrupted. How does that affect the patient outcome?
 10:27:14 **20** **A.** The correlation between the research is that
 10:27:17 **21** there is a correlation between disruption of the
 10:27:20 **22** positive pressure and increased risk for surgical-site
 10:27:25 **23** infections.
 10:27:26 **24** **Q.** And do you have a -- a -- an article that
 10:27:31 **25** you could refer me to, a peer-reviewed article?

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22

10:27:35 **1** **A.** Yes.
 10:27:37 **2** **Q.** And by the way, --
 10:27:38 **3** **A.** But I don't -- I know -- I know --
 10:27:39 **4** **Q.** -- she can't give you any answers.
 10:27:41 **5** **A.** No, I know. I'm trying to remember the name
 10:27:43 **6** of the author. I'm sorry.
 10:27:43 **7** I believe it's on my statement. I believe I
 10:27:47 **8** referred that -- to that article in my statement.
 10:27:56 **9** MR. ASSAAD: Let's mark this as Exhibit 1.
 10:27:56 **10** (Hughes Exhibit 1 marked for
 10:27:56 **11** identification.)
 10:27:56 **12** BY MR. ASSAAD:
 10:28:10 **13** **Q.** What's been marked as Exhibit 1 is a copy of
 10:28:14 **14** your expert report provided to us on June 2nd, 2017 by
 10:28:20 **15** -- by the defense in this case.
 10:28:23 **16** Before you look at it to determine whether
 10:28:26 **17** or not -- or to point me to the citation that you're
 10:28:28 **18** referring to, is this a correct and complete copy of
 10:28:31 **19** your expert report?
 10:28:34 **20** **A.** (Witness reviewing exhibit.) Yes.
 10:28:36 **21** **Q.** Have you had a chance to review your report
 10:28:38 **22** before your deposition today?
 10:28:39 **23** **A.** Yes.
 10:28:40 **24** **Q.** Are there any corrections that you want to
 10:28:42 **25** make to your report before we begin discussing it?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

23

10:28:46 **1** **A.** I think the only correction I -- (Witness
 10:28:46 **2** reviewing exhibit.)
 10:29:03 **3** No. I do not.
 10:29:05 **4** **Q.** Okay. And is your report a complete list of
 10:29:12 **5** all the opinions in this -- in the case that you have?
 10:29:15 **6** **A.** That I have --
 10:29:15 **7** **Q.** Yes.
 10:29:16 **8** **A.** -- personally? Yes.
 10:29:18 **9** **Q.** Okay. And everything in your --
 10:29:19 **10** And all the material that you rely upon to
 10:29:21 **11** support your opinions are in the report; correct?
 10:29:24 **12** **A.** Yes.
 10:29:24 **13** **Q.** Okay. And you wrote this report yourself;
 10:29:31 **14** correct?
 10:29:31 **15** **A.** Yes.
 10:29:31 **16** **Q.** Okay. Did you have any help writing this
 10:29:33 **17** report?
 10:29:34 **18** **A.** No.
 10:29:34 **19** **Q.** Okay. Did anyone offer any comments to you
 10:29:38 **20** regarding the report?
 10:29:40 **21** **A.** No.
 10:29:41 **22** **Q.** Okay. Did you discuss your opinions with
 10:29:46 **23** anyone besides counsel?
 10:29:47 **24** **A.** No.
 10:29:51 **25** **Q.** Did you look at any other --

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24

10:29:54 **1** With respect to your references 1 through 7
 10:29:55 **2** on page 7 of your report, did you independently
 10:30:01 **3** provide these references, or were these given to you
 10:30:05 **4** by somebody?
 10:30:06 **5** **A.** Oh, no. I provided them.
 10:30:08 **6** **Q.** Okay. Do you know any of the authors that
 10:30:23 **7** you cite in this report?
 10:30:24 **8** **A.** I do not.
 10:30:34 **9** **Q.** Okay. What reference are you referring to
 10:30:36 **10** with respect to --
 10:30:36 **11** **A.** I believe it was number 2.
 10:30:38 **12** MS. LEWIS: Let him finish his question.
 10:30:40 **13** THE WITNESS: Oh, I'm sorry. I'm sorry.
 10:30:42 **14** **Q.** What reference were you -- were you
 10:30:43 **15** referring to with respect to traffic and opening
 10:30:47 **16** doors?
 10:30:56 **17** **A.** Number 2, Andersson, and number 3, Parah, I
 10:31:01 **18** believe are the ones I cited.
 10:31:02 **19** **Q.** Okay. So Andersson sta -- is titled
 10:31:05 **20** "Traffic flow in the operating room: an explorative
 10:31:08 **21** and description study of air quality during orthopedic
 10:31:10 **22** trauma implant surgery."
 10:31:14 **23** First of all, orthopedic trauma implant
 10:31:15 **24** surgery is different than elective total hip and total
 10:31:18 **25** knee arthroplasty; correct?

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25

10:31:19 **1** **A.** It's --
 10:31:21 **2** Depending on the facility and the
 10:31:22 **3** classification. There are some classifications that
 10:31:26 **4** put the two together, and some that separate. And I
 10:31:30 **5** don't know which one he used without looking at the
 10:31:32 **6** article.
 10:31:33 **7** **Q.** And I take it you've read all these
 10:31:35 **8** articles; correct?
 10:31:36 **9** **A.** Yes.
 10:31:36 **10** **Q.** All right.
 10:31:36 **11** **A.** Yes.
 10:31:36 **12** **Q.** Like from beginning to end, not just the
 10:31:38 **13** abstract.
 10:31:39 **14** **A.** Yes, --
 10:31:39 **15** **Q.** Okay.
 10:31:39 **16** **A.** -- from beginning to end.
 10:31:40 **17** **Q.** And it says something about "description
 10:31:42 **18** study on air quality." What does air quality have to
 10:31:44 **19** do with traffic flow?
 10:31:48 **20** **A.** I'd have to go back and look at the study,
 10:31:53 **21** whether he was measuring particles or current. I
 10:31:58 **22** don't remember.
 10:32:00 **23** **Q.** Well assume he was measuring particles, what
 10:32:02 **24** do particles have to do with air quality?
 10:32:05 **25** **MS. LEWIS:** Do you want to show her the
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

26

10:32:06 **1** article so she can look to see?
 10:32:08 **2** **MR. ASSAAD:** I don't have it.
 10:32:11 **3** **A.** Okay. Ask your question again. I'm sorry.
 10:32:16 **4** **Q.** Well you cite this study yourself as -- you
 10:32:19 **5** know, you read this; correct?
 10:32:20 **6** **A.** Yes.
 10:32:20 **7** **Q.** And you've read it in preparation of writing
 10:32:23 **8** your report; correct?
 10:32:24 **9** **A.** Yes. And that was two months ago.
 10:32:25 **10** **Q.** I understand that.
 10:32:26 **11** **A.** Okay.
 10:32:26 **12** **Q.** And did you look at the study previously
 10:32:28 **13** before -- in preparation of your deposition?
 10:32:31 **14** **A.** Yes, but again, awhile ago.
 10:32:33 **15** **Q.** Okay.
 10:32:36 **16** **A.** Not last night.
 10:32:38 **17** **Q.** Well what's "awhile ago"?
 10:32:39 **18** **A.** Three weeks, four weeks.
 10:32:43 **19** **Q.** Okay. So you mentioned either particles or
 10:32:50 **20** currents; correct?
 10:32:51 **21** **A.** Correct.
 10:32:51 **22** **Q.** Okay. You're just not sure which one it was
 10:32:54 **23** he was referring to.
 10:32:55 **24** **A.** Correct.
 10:32:56 **25** **Q.** Okay. Just assume that he was referring to
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

27

10:32:57 **1** particles. How would particles affect air quality?
 10:32:59 **2** **MS. LEWIS:** Objection to the form of the
 10:33:01 **3** question and foundation. And again if -- I mean,
 10:33:04 **4** you're asking her to guess on what the article said,
 10:33:08 **5** so unless -- if you don't have a copy of the article
 10:33:11 **6** --
 10:33:11 **7** **MR. ASSAAD:** I'm not asking her to guess.
 10:33:12 **8** She's the one that cited it. I assume as an expert
 10:33:15 **9** in this case that's going to offer opinions and you
 10:33:17 **10** refer to an article, you actually know what the
 10:33:19 **11** article states.
 10:33:20 **12** **MS. LEWIS:** Well no, this is not a memory
 10:33:22 **13** game, Gabe.
 10:33:22 **14** **BY MR. ASSAAD:**
 10:33:23 **15** **Q.** Do you know what the article states, ma'am?
 10:33:25 **16** **A.** Not without looking at it again.
 10:33:26 **17** **Q.** Okay. So sitting here today you don't know
 10:33:28 **18** what the article states.
 10:33:29 **19** **A.** Not looking at it again today.
 10:33:31 **20** **Q.** Let's look what you used for number 2.
 10:33:32 **21** **A.** Okay.
 10:33:33 **22** **Q.** Let's look where it states that you cite to
 10:33:36 **23** number 2. If you look at page 3 it says: According
 10:33:47 **24** to published literature, increased 'door openings'
 10:33:50 **25** causes more air current into the operating room and
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

28

10:33:52 **1** increase the risk to the patient of a potential for a
 10:33:56 **2** surgical site infection."
 10:33:56 **3** Did I read that correctly?
 10:33:57 **4** **A.** Yes.
 10:33:58 **5** **Q.** Okay. So does that refresh your memory as
 10:34:00 **6** to what the article states?
 10:34:03 **7** **MS. LEWIS:** Objection, form.
 10:34:09 **8** **Q.** "Yes" or "no"?
 10:34:09 **9** **A.** My understanding is that it goes into the
 10:34:12 **10** next sentence.
 10:34:17 **11** **Q.** I understand, but what I'm trying to
 10:34:19 **12** understand is how does air current or particles
 10:34:24 **13** increase the risk to the patient of a potential for a
 10:34:27 **14** surgical-site infection; if you know. If you don't
 10:34:29 **15** know, that's fine.
 10:34:29 **16** **A.** Okay. I don't know.
 10:34:31 **17** **Q.** Okay. You're not an engineer; correct?
 10:34:56 **18** **A.** That's correct.
 10:34:57 **19** **Q.** So you don't consider yourself an expert in
 10:35:00 **20** airflow; correct?
 10:35:01 **21** **A.** That's correct.
 10:35:02 **22** **Q.** And you're not a medical doctor; correct?
 10:35:04 **23** **A.** That's correct.
 10:35:04 **24** **Q.** So you don't consider yourself an expert in
 10:35:09 **25** infectious diseases?
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

29

10:35:10 **1** **A.** No.

10:35:11 **2** **Q.** You don't consider yourself an expert in

10:35:13 **3** orthopedics?

10:35:13 **4** **A.** No.

10:35:14 **5** **Q.** You don't consider yourself an expert in

10:35:16 **6** anesthesiology?

10:35:17 **7** **A.** That's correct.

10:35:17 **8** **Q.** You don't consider yourself an expert in

10:35:22 **9** hospital ventilation?

10:35:24 **10** **A.** No.

10:35:24 **11** **Q.** You don't consider yourself an expert in

10:35:26 **12** aerobiology?

10:35:28 **13** **A.** No. Whatever that is.

10:35:29 **14** **Q.** You don't consider yourself an expert in

10:35:32 **15** operating room design?

10:35:34 **16** **A.** No.

10:35:35 **17** **Q.** Okay. You don't consider yourself an expert

10:35:37 **18** in microbiology?

10:35:39 **19** **A.** That's correct.

10:35:43 **20** **Q.** Have you ever designed a medical device?

10:35:45 **21** **A.** No.

10:35:46 **22** **Q.** So you don't consider yourself an expert in

10:35:48 **23** the design of medical devices; correct?

10:35:49 **24** **A.** Correct.

10:35:49 **25** **Q.** You don't consider yourself an expert with

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

30

10:35:52 **1** respect to FDA clearance; correct?

10:35:53 **2** **A.** No.

10:35:55 **3** **Q.** Correct; right?

10:35:56 **4** **A.** That is correct. I am not an expert on FDA

10:35:58 **5** clearance.

10:36:35 **6** **Q.** You mentioned that, you know, surgeries such

10:36:37 **7** as hernia prosthesis or breast implant surgeries, that

10:36:47 **8** the opening of doors and traffic could increase the

10:36:55 **9** risk of surgical-site infection; correct?

10:36:57 **10** **A.** In some facili --

10:36:59 **11** MS. LEWIS: Objection to the form of the

10:37:00 **12** question.

10:37:00 **13** **A.** -- I didn't say it increased -- No. State

10:37:04 **14** that --

10:37:04 **15** **Q.** Maybe I misunderstood you.

10:37:05 **16** **A.** Yeah.

10:37:06 **17** **Q.** So what is it about those surgeries that are

10:37:08 **18** significant?

10:37:08 **19** **A.** In some facilities they are treated as the

10:37:10 **20** same as a total joint and work -- the facility and the

10:37:14 **21** staff work very hard to restrict traffic in any room

10:37:17 **22** that has a prosthesis.

10:37:18 **23** **Q.** Okay. And it's -- based on what I'm

10:37:22 **24** understanding is that they want to restrict traffic

10:37:28 **25** because the more traffic that exists can increase the

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

31

10:37:33 **1** risk of a surgical-site infection; correct?

10:37:36 **2** MS. LEWIS: Objection to the form.

10:37:38 **3** **A.** The traffic --

10:37:39 **4** MR. ASSAAD: Basis? Basis?

10:37:41 **5** MS. LEWIS: Foundation.

10:37:42 **6** MR. ASSAAD: Okay.

10:37:44 **7** **A.** The traffic increases the door openings and

10:37:47 **8** closings. That's my statement.

10:37:51 **9** **Q.** Okay. Do you know whether or not, sitting

10:37:52 **10** here today, that the -- the number of people in an

10:37:56 **11** operating room can affect the risk of a surgical-site

10:38:00 **12** infection in total hip or total knee arthroplasty?

10:38:03 **13** MS. LEWIS: Same objection.

10:38:03 **14** **A.** No.

10:38:04 **15** **Q.** Okay.

10:38:04 **16** **A.** I do not.

10:38:37 **17** **Q.** Is there something about a prosthesis such

10:38:40 **18** as a total hip or total knee that the opening of the

10:38:47 **19** door increases the risk of surgical-site infection?

10:38:51 **20** **A.** Again --

10:38:51 **21** MS. LEWIS: Same objection.

10:38:52 **22** **A.** -- disturbance to the positive airflow in

10:38:56 **23** the room.

10:38:56 **24** **Q.** What does that mean? I mean, so what?

10:39:00 **25** **A.** That's what the literature has shown that

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

32

10:39:03 **1** if -- when there is a disturbance to that, there is an

10:39:06 **2** increased potential risk for surgical-site infection.

10:39:09 **3** **Q.** Do you know what causes surgical-site

10:39:11 **4** infection?

10:39:12 **5** **A.** A variety of factors, most often,

10:39:17 **6** unfortunately, the patient.

10:39:18 **7** **Q.** Okay. And your basis?

10:39:21 **8** **A.** Literature reading.

10:39:22 **9** **Q.** What's --

10:39:22 **10** What are you citing to?

10:39:24 **11** **A.** I'm not citing anything. This is from my

10:39:26 **12** knowledge --

10:39:29 **13** **Q.** Okay.

10:39:29 **14** **A.** -- as a practicing nurse.

10:39:31 **15** **Q.** Okay. But your knowledge is not based on

10:39:33 **16** your education in infectious diseases or anything like

10:39:37 **17** that; is it?

10:39:37 **18** **A.** No.

10:39:38 **19** **Q.** And you would defer to an infectious disease

10:39:40 **20** expert with respect to what causes a surgical-site

10:39:43 **21** infection; correct?

10:39:44 **22** **A.** Yes.

10:39:51 **23** **Q.** But when I said what causes a surgical-site

10:39:53 **24** infection, is it -- you agree with me that it's a

10:39:57 **25** bacteria; correct?

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65

11:20:30 **1** room table as compared to letting them below the
 11:20:33 **2** operating room table?
 11:20:33 **3** **A.** Are you talking about those who are scrubbed
 11:20:35 **4** at the surgical field?
 11:20:36 **5** **Q.** Yes.
 11:20:37 **6** **A.** They are instructed to keep them in front of
 11:20:38 **7** them so that they can see them at all times.
 11:20:41 **8** **Q.** Are they allowed to put them down below the
 11:20:43 **9** operating room table?
 11:20:44 **10** **A.** If it's a low --
 11:20:45 **11** If it's a sitting case, yes, but otherwise
 11:20:47 **12** not usually.
 11:20:48 **13** **Q.** Okay. Say in a total hip or total knee, are
 11:20:49 **14** they allowed to put their arms underneath the
 11:20:52 **15** operating room table?
 11:20:53 **16** **A.** Under the table?
 11:20:54 **17** **Q.** Or below the operating room table?
 11:20:55 **18** **A.** It's not below the table, it's below where
 11:20:58 **19** the -- where they are in relation to the table, so
 11:21:01 **20** they don't want to be below the table.
 11:21:03 **21** **Q.** Why not?
 11:21:04 **22** **A.** Because, again, they may inadvertently touch
 11:21:08 **23** something that was not sterile like they were.
 11:21:10 **24** **Q.** Okay. But what if they don't touch
 11:21:12 **25** anything, is it still okay to put your hands

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

66

11:21:14 **1** underneath the operating room table?
 11:21:15 **2** **A.** The recommendation is to keep them in front
 11:21:17 **3** of you at all times.
 11:21:17 **4** **Q.** Why is that the recommendation?
 11:21:19 **5** **A.** So, again, you are not inadvertently
 11:21:21 **6** contaminating yourself.
 11:21:22 **7** **Q.** So sitting here today you have no opinion as
 11:21:26 **8** to whether -- Strike that. Strike that.
 11:21:29 **9** You do understand that the airflow in the
 11:22:11 **10** operating room is pushing all the contaminants down to
 11:22:15 **11** the floor and then out of -- out to the output vents
 11:22:18 **12** in the operating room.
 11:22:19 **13** **A.** I don't know if --
 11:22:20 **14** MS. LEWIS: Objection, form.
 11:22:22 **15** **A.** -- it's pushing contaminants. I know the
 11:22:25 **16** direction of the flow. I can't answer whether or not
 11:22:25 **17** it's pushing anything besides the flow.
 11:22:47 **18** **Q.** You write on page 2, under introduction to
 11:22:50 **19** operating room environment, last sentence: "Although
 11:22:55 **20** the unidirectional air is filtered, it is not
 11:22:58 **21** considered sterile, and is not sterile over the
 11:23:00 **22** operating room bed."
 11:23:01 **23** What is your basis behind that? What are
 11:23:04 **24** you -- What citation are you referring to in your
 11:23:06 **25** citations to support that statement?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

67

11:23:08 **1** **A.** I don't know that I can answer with a
 11:23:10 **2** citation.
 11:23:11 **3** **Q.** Okay.
 11:23:11 **4** **A.** The air in the room is not sterile. I can
 11:23:15 **5** honestly say that. It is not sterile.
 11:23:18 **6** **Q.** And what's your basis?
 11:23:20 **7** **A.** My basis of microbiology and sterilization
 11:23:24 **8** properties.
 11:23:24 **9** **Q.** What class or what lecture have you taken in
 11:23:27 **10** the microbiology -- with respect to microbiology that
 11:23:31 **11** discusses the unidirectional airflow in an op --
 11:23:33 **12** **A.** Nothing.
 11:23:35 **13** **Q.** Okay.
 11:23:35 **14** **A.** Nothing.
 11:23:35 **15** **Q.** What citation are you referring to that
 11:23:37 **16** could support that statement, sitting here today?
 11:23:39 **17** **A.** Probably a basic course on sterilization.
 11:23:41 **18** **Q.** Well I'm asking about a citation, like a --
 11:23:43 **19** **A.** I cannot spit out a citation for you today.
 11:23:46 **20** **Q.** Okay. Do you know whether or not the air is
 11:23:57 **21** filtered coming out of the ventilation?
 11:23:59 **22** **A.** I'm not an engineer, but I understand it is.
 11:24:01 **23** **Q.** Do you know what level filtration?
 11:24:02 **24** **A.** I do not.
 11:24:11 **25** **Q.** You write down, like four, five lines up

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

68

11:24:14 **1** from that: "The air is filtered and the
 11:24:16 **2** unidirectional downward air flow is strong."
 11:24:18 **3** What do you mean by the term "strong"?
 11:24:20 **4** **A.** That means when you're standing next to the
 11:24:22 **5** patient at the surgical site you can feel the airflow
 11:24:24 **6** on the back of your neck.
 11:24:26 **7** **Q.** Okay. So that to you is "strong."
 11:24:29 **8** **A.** Yes.
 11:24:30 **9** **Q.** Okay.
 11:24:30 **10** **A.** That's my words and my description.
 11:24:32 **11** **Q.** And I take it if I ask you what the velocity
 11:24:34 **12** of the air, you would not know what the answer is;
 11:24:37 **13** correct?
 11:24:37 **14** **A.** That's correct.
 11:24:38 **15** **Q.** Okay. Are you --
 11:24:44 **16** When you participate in a total hip or total
 11:24:47 **17** knee are you the scrub nurse?
 11:24:49 **18** **A.** I can function as either the scrub nurse or
 11:24:51 **19** the circulating nurse.
 11:24:53 **20** **Q.** Okay. Does the Bair Hugger work, in your
 11:24:59 **21** opinion?
 11:25:00 **22** **A.** Yes. It keeps the patient at a good
 11:25:02 **23** normothermia temperature.
 11:25:03 **24** **Q.** So you think the Bair Hugger is effective in
 11:25:05 **25** the first hour of surgery?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

73

11:30:32 **1** difference between a periprosthetic joint infection
 11:30:34 **2** and a superficial wound infection; correct?
 11:30:36 **3** **A.** Correct.
 11:30:37 **4** **Q.** Okay. And if I asked you the amount of --
 11:30:47 **5** Do you know what a CFU is?
 11:30:50 **6** **A.** I've forgotten.
 11:30:52 **7** **Q.** Okay. So sitting here today, you don't know
 11:30:54 **8** what a CFU is; correct?
 11:30:56 **9** **A.** No.
 11:30:57 **10** **Q.** Okay. So sitting here today, you would not
 11:31:09 **11** know the mechanism of causing an infection with
 11:31:13 **12** respect to a periprosthetic joint infection; correct?
 11:31:15 **13** **A.** Correct.
 11:31:16 **14** **Q.** Okay. You agree with me that you want to
 11:31:33 **15** keep the operating room as sterile as possible;
 11:31:36 **16** correct?
 11:31:37 **17** **A.** The operating room is not sterile.
 11:31:40 **18** **Q.** Let me rephrase that.
 11:31:41 **19** You want to keep the area -- the surgical
 11:31:43 **20** site as sterile as possible.
 11:31:47 **21** **A.** No. I would not agree with that statement.
 11:31:50 **22** **Q.** Okay. Do you want to place measures to keep
 11:31:57 **23** as much of the contaminants out of the surgical site?
 11:32:01 **24** **A.** Yes.
 11:32:02 **25** **Q.** And you also want to keep -- you want to
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

74

11:32:05 **1** place measures that would keep contaminants out of the
 11:32:13 **2** area in which the surgeon is working; correct?
 11:32:16 **3** **A.** Yes.
 11:32:16 **4** **Q.** Keep contaminants out of the area of the
 11:32:19 **5** surgeon's hands or anyone's hands that are going to
 11:32:22 **6** the surgical site; correct?
 11:32:22 **7** **A.** Yes.
 11:32:23 **8** **Q.** You want to keep contaminants out of the
 11:32:25 **9** area where the surgical instruments are being placed.
 11:32:29 **10** **A.** Yes.
 11:32:29 **11** **Q.** You want to keep the --
 11:32:31 **12** You want to place measures to keep the area
 11:32:39 **13** where the implant is being placed before it's placed
 11:32:43 **14** into the patient, to limit the contaminants that reach
 11:32:48 **15** that area; correct?
 11:32:49 **16** **A.** Yes.
 11:32:49 **17** **Q.** Okay. Because there's many ways that you
 11:32:53 **18** could infect an implant; correct? Strike that.
 11:32:58 **19** There's many ways an implant could be
 11:33:01 **20** contaminated; correct?
 11:33:02 **21** **A.** Yes.
 11:33:04 **22** **Q.** Could be by direct contamination if the
 11:33:06 **23** surgeon's hands are not sterile; correct?
 11:33:11 **24** **A.** His hands --
 11:33:12 **25** **Q.** Where his gloves are, they're not sterile.
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75

11:33:15 **1** **A.** I don't get that question. I'm sorry. I'm
 11:33:18 **2** not following that question.
 11:33:19 **3** **Q.** You do understand to cause a infection you
 11:33:22 **4** need bacteria; correct?
 11:33:23 **5** **A.** Correct.
 11:33:23 **6** **Q.** And bacteria needs to be transferred to --
 11:33:27 **7** for example, if it's an implant infection, onto the
 11:33:30 **8** implant; correct?
 11:33:32 **9** **A.** Potentially, yes. Correct.
 11:33:33 **10** **Q.** Okay. And you want to place measures to
 11:33:39 **11** limit the chances of any bacteria getting onto that
 11:33:43 **12** implant.
 11:33:44 **13** **A.** Correct.
 11:33:45 **14** **Q.** Okay. That means you want to place measures
 11:33:50 **15** to limit the amount of contaminants that could get
 11:33:56 **16** onto the surgical gloves of the surgeon; correct?
 11:33:59 **17** **A.** What do you mean by "place measures"?
 11:34:01 **18** **Q.** Like, you want to -- you want to keep the
 11:34:04 **19** area as clean as possible.
 11:34:05 **20** **A.** Sterile.
 11:34:06 **21** **Q.** Sterile.
 11:34:08 **22** **A.** So ask the question again.
 11:34:11 **23** **Q.** Have you heard of the term "a sterile
 11:34:12 **24** field"?
 11:34:12 **25** **A.** Yes.
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76

11:34:13 **1** **Q.** Okay. But it's your opinion that a sterile
 11:34:15 **2** field is not sterile.
 11:34:17 **3** **A.** It is as sterile as it can be.
 11:34:19 **4** **Q.** Okay. And there's many procedures and rules
 11:34:24 **5** and regulations in the operating room to keep the
 11:34:27 **6** sterile field as sterile as possible.
 11:34:29 **7** **A.** Yes.
 11:34:30 **8** **Q.** Okay. And not just the --
 11:34:32 **9** And the sterile field includes the surgical
 11:34:35 **10** site?
 11:34:35 **11** **A.** Yes.
 11:34:36 **12** **Q.** Okay. It includes the front of the surgeons
 11:34:40 **13** and the assistants participating in the surgery?
 11:34:43 **14** **A.** Yes.
 11:34:43 **15** **Q.** It includes the back tables?
 11:34:44 **16** **A.** Yes.
 11:34:45 **17** **Q.** Okay. It includes anything that may
 11:34:48 **18** contaminate the surgical site; correct?
 11:34:55 **19** **A.** Any inanimate object, is that what you're?
 11:34:58 **20** **Q.** Yes.
 11:34:58 **21** **A.** Yes.
 11:34:59 **22** **Q.** Okay. And in fact you do -- there is the
 11:35:03 **23** patient prep where you try to make the skin around the
 11:35:06 **24** patient where the surgical site is as sterile as
 11:35:09 **25** possible, as clean as possible.
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

77

11:35:10 **1** **A.** Clean.
 11:35:11 **2** **Q.** Okay.
 11:35:12 **3** **A.** The skin --
 11:35:14 **4** We do not sterilize the skin.
 11:35:15 **5** **Q.** But you have sterile drapes; correct?
 11:35:17 **6** **A.** Yes.
 11:35:17 **7** **Q.** And you isolate the surgical site and you
 11:35:23 **8** put the sterile drapes around it; correct?
 11:35:23 **9** (Interruption by the reporter.)
 11:35:23 **10** THE REPORTER: "And you isolate the"?
 11:35:25 **11** **Q.** -- sterile site, and you try to keep the --
 11:35:26 **12** you try to limit the amount of contaminants that could
 11:35:28 **13** get to that area; correct?
 11:35:29 **14** **A.** Yes.
 11:35:30 **15** **Q.** Okay. For example, you put, like, even for
 11:35:36 **16** the overhead lights you put, you know, a covering over
 11:35:39 **17** the handles so it doesn't potentially contaminate the
 11:35:43 **18** sterile field.
 11:35:45 **19** **A.** No.
 11:35:46 **20** **Q.** You don't put, like --
 11:35:48 **21** **A.** The cover is used for the surgeon to
 11:35:50 **22** manipulate the light, not to cover or sterilize the
 11:35:53 **23** light.
 11:35:54 **24** **Q.** Yeah, because you don't want the surgeon to
 11:35:55 **25** touch the light that could be contaminated; correct?
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78

11:35:58 **1** **A.** Correct. Yes. Touch an un --
 11:36:00 **2** **Q.** The handle.
 11:36:01 **3** **A.** -- the handle that's unsterile, yes.
 11:36:03 **4** **Q.** Okay.
 11:36:08 **5** **A.** The light is not covered, though.
 11:36:11 **6** **Q.** I understand that.
 11:36:11 **7** **A.** Okay.
 11:36:12 **8** **Q.** But the light is cleaned; correct?
 11:36:14 **9** **A.** Yes, it is cleaned.
 11:36:27 **10** **Q.** And in fact on page 2, under "**Introduction**
 11:36:30 **11** **to the Operating Room Environment**" of Exhibit 1 you
 11:36:33 **12** write: "The operating room environment is one of
 11:36:35 **13** rigid rules and regulations put in... place to protect
 11:36:39 **14** the surgical patient and the healthcare worker";
 11:36:42 **15** correct?
 11:36:42 **16** **A.** Correct.
 11:36:42 **17** **Q.** Okay. There are many rules and regulations
 11:36:44 **18** to protect a surgical patient; correct?
 11:36:48 **19** **A.** Correct.
 11:36:48 **20** **Q.** And that one of the reasons to protect the
 11:36:50 **21** surgical patient is to try to protect the patient from
 11:36:55 **22** obtaining a surgical-site infection.
 11:36:56 **23** **A.** Yes.
 11:36:57 **24** **Q.** Okay. And you agree with me that there are
 11:37:03 **25** certain types of infections that occur while the
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79

11:37:06 **1** patient is in surgery.
 11:37:11 **2** MS. LEWIS: Objection, form.
 11:37:12 **3** **A.** I don't know that. I don't know that.
 11:37:13 **4** **Q.** Okay. You don't know that. Okay.
 11:37:15 **5** **A.** No.
 11:37:22 **6** **Q.** You write down here: "The air handling
 11:37:26 **7** requirement for an operating room is a minimum of 20
 11:37:28 **8** exchanges an hour, with a minimum of 4 air changes of
 11:37:32 **9** outdoor air."
 11:37:33 **10** **A.** Correct.
 11:37:34 **11** **Q.** Where'd you obtain that information?
 11:37:35 **12** **A.** From the AORN recommended practice.
 11:37:38 **13** **Q.** Is that cited?
 11:37:40 **14** **A.** I believe it is, the 2017. (Witness
 11:37:40 **15** reviewing exhibit.)
 11:37:44 **16** No, I didn't put it in there.
 11:37:46 **17** **Q.** Okay.
 11:37:47 **18** **A.** Sorry.
 11:37:47 **19** **Q.** So there's no reference --
 11:37:48 **20** **A.** For garments --
 11:37:49 **21** Yes, I'm sorry, I did. AORN Guideline for
 11:37:53 **22** Safe Environment of Care. Part II is the one with
 11:37:54 **23** air-handling recommendations.
 11:37:56 **24** **Q.** Okay. But you yourself don't consider
 11:38:00 **25** you're an expert in air handling; correct?
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80

11:38:03 **1** **A.** That's correct.
 11:38:06 **2** **Q.** Okay. You go on and say: "The pressure is
 11:38:07 **3** maintained as positive pressure to the surrounding
 11:38:09 **4** rooms."
 11:38:10 **5** **A.** Correct.
 11:38:10 **6** **Q.** Do you know what the -- the difference in
 11:38:12 **7** pressure is?
 11:38:14 **8** **A.** The degree, or the --
 11:38:16 **9** **Q.** Yeah.
 11:38:16 **10** **A.** No.
 11:38:17 **11** **Q.** Okay. Do you agree that, on the first line
 11:38:38 **12** of -- under "**The Operating Room Procedures**," that:
 11:38:40 **13** "The goal is to provide for each surgical patient a
 11:38:43 **14** safe clean environment"; correct?
 11:38:44 **15** **A.** Yes.
 11:38:45 **16** **Q.** So you want to do everything possible to
 11:38:46 **17** have a clean, safe environment for the patient;
 11:38:49 **18** correct?
 11:38:49 **19** **A.** Yes.
 11:38:50 **20** **Q.** You don't want any device in there that
 11:38:52 **21** could possibly cause harm to the patient; correct?
 11:38:54 **22** **A.** Correct.
 11:38:54 **23** **Q.** And if that device causes harm it should not
 11:38:56 **24** be used in the patient unless it's absolutely
 11:38:58 **25** necessary; correct?
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81

11:38:59 **1** **A.** Correct.

11:39:04 **2** **Q.** And if there are other products that could

11:39:06 **3** do the same thing but are safer for the patient, then

11:39:09 **4** you should use that product; correct?

11:39:11 **5** MS. LEWIS: Objection to form.

11:39:12 **6** **A.** Say -- State that one again, I'm...

11:39:14 **7** **Q.** Well if there are -- if there are many ways

11:39:16 **8** to warm a patient, and one is safer than the other,

11:39:18 **9** you should use the one that's safer for the patient,

11:39:21 **10** correct, if they're both as effective?

11:39:23 **11** **A.** I don't --

11:39:24 **12** MS. LEWIS: Objection to form.

11:39:25 **13** **A.** -- know the answer to that.

11:39:26 **14** **Q.** You don't?

11:39:26 **15** **A.** No. I've only used one device, so I don't

11:39:28 **16** know if there are others that are as effective.

11:39:31 **17** **Q.** Well hypothetically --

11:39:32 **18** **A.** You're asking my opinion. That's my

11:39:34 **19** opinion. I don't know.

11:39:34 **20** **Q.** Hypothetically, if there is a device that is

11:39:36 **21** safer for the patient and it's just as effective as

11:39:39 **22** the Bair Hugger, would you agree with me, as an

11:39:43 **23** advocate for the patient, that you should use the

11:39:45 **24** safer device?

11:39:45 **25** MS. LEWIS: Objection to form.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

82

11:39:46 **1** **A.** I can't answer that.

11:39:47 **2** **Q.** You can't answer that question?

11:39:49 **3** **A.** I can't answer that.

11:39:49 **4** **Q.** Why not?

11:39:50 **5** **A.** The answer would depend on the cost of the

11:39:54 **6** device, the studies that show it's as effective, and

11:40:01 **7** as ease of use. There are lots of factors other than

11:40:03 **8** just saying it's as effective.

11:40:06 **9** **Q.** So are you sitting here today that cost may

11:40:08 **10** be important than patient safety?

11:40:10 **11** **A.** Huge. Huge.

11:40:12 **12** **Q.** So you're saying it's more important than

11:40:14 **13** patient safety?

11:40:15 **14** **A.** No. I didn't say "more important."

11:40:16 **15** **Q.** Well that was my question, ma'am.

11:40:17 **16** **A.** It -- Say your question again.

11:40:19 **17** **Q.** Are you sitting here today saying that cost

11:40:20 **18** is more important than patient safety?

11:40:22 **19** **A.** No.

11:40:23 **20** **Q.** Okay. Are you saying that the ease of use

11:40:25 **21** of the device is more important than patient safety?

11:40:28 **22** **A.** No.

11:40:29 **23** **Q.** Okay. Patient safety is paramount; correct?

11:40:40 **24** **A.** Yes.

11:40:56 **25** **Q.** And you think the Bair Hugger is safe;

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

83

11:40:57 **1** correct?

11:40:57 **2** **A.** Yes, --

11:40:57 **3** **Q.** Okay.

11:40:58 **4** **A.** -- in my experience.

11:40:59 **5** **Q.** Okay. Did you do any research to see what

11:41:06 **6** has been written about the Bair Hugger and its safety

11:41:07 **7** in the past 10 years?

11:41:08 **8** **A.** No.

11:41:09 **9** **Q.** Okay.

11:41:12 **10** **A.** Other than to cite my articles.

11:41:12 **11** **Q.** Okay.

11:41:18 **12** **A.** That's the reading I've done.

11:41:20 **13** **Q.** So you were asked to be an expert in this

11:41:24 **14** case; correct?

11:41:25 **15** **A.** Correct.

11:41:25 **16** **Q.** Okay. And you got a call from some attorney

11:41:29 **17** at 3M, I guess it was in May of 2017; correct?

11:41:32 **18** **A.** Yes.

11:41:33 **19** **Q.** Okay.

11:41:34 **20** **A.** It was Deborah.

11:41:35 **21** **Q.** Okay. And before you were --

11:41:43 **22** Did you know you would be receiving a call,

11:41:45 **23** from your colleagues, regarding the Bair Hugger device

11:41:48 **24** and this litigation?

11:41:49 **25** **A.** No.

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84

11:41:50 **1** **Q.** Okay. So they didn't tell you that they

11:41:52 **2** referred you to Deborah Lewis.

11:41:53 **3** **A.** One colleague did, yes.

11:41:55 **4** **Q.** Okay.

11:41:55 **5** **A.** She sent me an email saying, I've tossed

11:41:58 **6** your name out there.

11:41:59 **7** **Q.** Okay.

11:42:00 **8** **A.** But did not have any particulars of the

11:42:03 **9** case.

11:42:04 **10** **Q.** Okay. And before you --

11:42:12 **11** Let me ask you this: Were there any facts

11:42:14 **12** that 3M provided, or their counsel, that you relied

11:42:21 **13** upon in formulating your opinions?

11:42:23 **14** **A.** No.

11:42:24 **15** **Q.** Okay. Did you do any independent research

11:42:28 **16** to determine whether or not the plaintiffs'

11:42:32 **17** allegations were true or false?

11:42:33 **18** **A.** No.

11:42:34 **19** **Q.** Okay. So my understanding is that you were

11:42:35 **20** asked to offer an expert opinion in this case

11:42:39 **21** regarding the safety of the Bair Hugger, and you

11:42:41 **22** yourself did not provide any inde -- perform any

11:42:45 **23** independent research.

11:42:46 **24** MS. LEWIS: Objection, form. That's not

11:42:47 **25** what --

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

85

11:42:47 **1** MR. ASSAAD: Basis?
 11:42:48 **2** MS. LEWIS: That's not what's in her
 11:42:50 **3** report.
 11:42:51 **4** **A.** I was asked to testify as to the flow of the
 11:42:54 **5** patient in the OR environment, not to conduct
 11:42:58 **6** independent research.
 11:42:59 **7** **Q.** You were asked to testify to what? I'm
 11:43:01 **8** sorry.
 11:43:02 **9** **A.** To the flow and -- of the patient in the
 11:43:04 **10** operating room.
 11:43:05 **11** **Q.** When you say "the flow of the patient,"
 11:43:07 **12** what, the airflow?
 11:43:08 **13** **A.** No, the flow, the -- the description of what
 11:43:11 **14** happens to the patient in the operating room.
 11:43:13 **15** **Q.** Okay. So sitting here today, you have done
 11:43:17 **16** no research or looked at the issues in this case to
 11:43:20 **17** determine, as a -- as a scientist, whether or not the
 11:43:25 **18** Bair Hugger is safe.
 11:43:28 **19** **A.** No, I would answer that, no, I have.
 11:43:30 **20** **Q.** What research have you done?
 11:43:32 **21** **A.** I have not done independent research, if
 11:43:34 **22** that's what you're asking. No, I have not done any
 11:43:36 **23** independent research. I have done reading.
 11:43:39 **24** **Q.** Okay. What reading have you done besides
 11:43:40 **25** what's in here?

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86

11:43:41 **1** **A.** This is what I've read.
 11:43:42 **2** **Q.** Okay. So you've read two articles on page
 11:43:56 **3** 7, items number 6 and 7, with respect to forced-air
 11:44:02 **4** warming devices?
 11:44:04 **5** **A.** Yes.
 11:44:05 **6** **Q.** Okay. So your -- sitting here today it is
 11:44:10 **7** your -- it's my understanding that your basis for
 11:44:14 **8** whether or not the Bair Hugger is safe is based on
 11:44:18 **9** references numbers 6 and 7 to your report.
 11:44:20 **10** **A.** And my --
 11:44:21 **11** And my expertise as a nurse.
 11:44:23 **12** **Q.** Well your expertise as a nurse did not
 11:44:25 **13** involve any research with respect to the Bair Hugger
 11:44:27 **14** safety; has it?
 11:44:28 **15** **A.** That's correct.
 11:44:29 **16** **Q.** Okay. So your expertise as a -- as a nurse
 11:44:32 **17** has nothing to do with your opinion with respect to
 11:44:35 **18** the safety of the Bair Hugger.
 11:44:37 **19** **A.** I disagree.
 11:44:38 **20** **Q.** Okay. What research have you done in the
 11:44:40 **21** past --
 11:44:40 **22** **A.** I have not done research.
 11:44:41 **23** **Q.** Okay. What --
 11:44:42 **24** What is it about being a nurse that you've
 11:44:44 **25** done, and have done anything, to determine the Bair

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87

11:44:48 **1** Hugger is safe?
 11:44:54 **2** **A.** My practice is I'm very interested in making
 11:44:57 **3** sure the patients are safe. If there was any
 11:45:00 **4** literature, or recalls, or concerns that any device
 11:45:04 **5** was not safe to be used on patients, I would not use
 11:45:07 **6** it in my practice.
 11:45:11 **7** MR. ASSAAD: Move to strike, nonresponsive.
 11:45:12 **8** **Q.** What have you done?
 11:45:14 **9** **A.** I have not done any independent research.
 11:45:15 **10** **Q.** Okay. Have you done any biological testing?
 11:45:17 **11** **A.** No.
 11:45:18 **12** **Q.** Have you done any filtration testing?
 11:45:21 **13** **A.** No.
 11:45:21 **14** **Q.** Have you looked at particle counts in an
 11:45:23 **15** operating room?
 11:45:23 **16** **A.** No.
 11:45:24 **17** **Q.** Okay. In fact you have not done any type of
 11:45:28 **18** testing with respect to the Bair Hugger; correct?
 11:45:30 **19** **A.** Correct.
 11:45:31 **20** **Q.** Okay. So again, besides your -- I mean, did
 11:45:39 **21** you have any -- With re -- Strike that.
 11:45:41 **22** With respect to determining, outside reading
 11:45:43 **23** those two articles, that the Bair Hugger is safe, what
 11:45:46 **24** methodology did you use?
 11:45:49 **25** **A.** None.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

88

11:45:59 **1** **Q.** Have you looked at the McGovern study?
 11:46:02 **2** **A.** No.
 11:46:02 **3** **Q.** Have you looked at any of the Legg studies?
 11:46:06 **4** **A.** Is it --
 11:46:07 **5** **Q.** Legg, L-E-G-G.
 11:46:08 **6** **A.** No.
 11:46:09 **7** **Q.** Have you looked at any of --
 11:46:12 **8** Have you looked at the Dasari study?
 11:46:15 **9** **A.** No.
 11:46:15 **10** **Q.** Have you looked at the Belani study?
 11:46:18 **11** **A.** No.
 11:46:18 **12** **Q.** Have you looked at the Harper study?
 11:46:20 **13** **A.** No.
 11:46:21 **14** **Q.** Have those studies been provided to you by
 11:46:23 **15** the defendants in this case?
 11:46:25 **16** **A.** I don't remember that they have. I do not
 11:46:28 **17** -- No. No.
 11:46:29 **18** **Q.** Because if they were listed it would be in
 11:46:30 **19** your report; correct?
 11:46:31 **20** **A.** Correct.
 11:46:32 **21** **Q.** Okay. You stated that you -- that as an
 11:47:08 **22** expert you were to be objective; correct?
 11:47:10 **23** **A.** Correct.
 11:47:11 **24** **Q.** Do you think it's being objective by not
 11:47:12 **25** looking at the studies that the plaintiffs rely upon

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93

11:52:38 **1 A.** Efficient, again, in that in measuring
 11:52:40 **2** pre-op temperature and post-op temperature it is able
 11:52:43 **3** to maintain their normal body temperature --
 11:52:45 **4 Q.** Okay.
 11:52:46 **5 A.** -- or keep them at a normal body
 11:52:48 **6** temperature.
 11:52:48 **7 Q.** So basically you're saying that the Bair
 11:52:51 **8** Hugger performs its job. You're not saying it's
 11:52:55 **9** efficient at doing its job.
 11:52:57 **10 A.** It's performed to what it --
 11:52:59 **11** It does what it --
 11:52:59 **12 Q.** Okay.
 11:53:00 **13 A.** -- says it will do, is maintain
 11:53:02 **14** normothermic.
 11:53:02 **15 Q.** Okay. And when you were called by defense
 11:53:15 **16** counsel in this case you agreed to handle the case;
 11:53:17 **17** correct?
 11:53:17 **18 A.** Yes. After discussion, yes.
 11:53:19 **19 Q.** Okay. Did you look at any literature or do
 11:53:22 **20** any research before you decided to be a defense for
 11:53:26 **21** the expert?
 11:53:27 **22 A.** No.
 11:53:39 **23 Q.** Do you know how much air is blown out of a
 11:53:44 **24** Bair Hugger when it's in use?
 11:53:46 **25 A.** No.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

94

11:53:48 **1 Q.** Do you know what the temperature of the air
 11:53:49 **2** is that comes out of the blanket in the Bair Hugger?
 11:53:51 **3 A.** No.
 11:54:25 **4 Q.** On page 4, on the paragraph that begins,
 11:54:38 **5** "the anesthesia provider."
 11:54:39 **6 A.** Yes.
 11:54:40 **7 Q.** It says, the last sentence: "The air
 11:54:43 **8** directed through the Bair Hugger blanket to the
 11:54:44 **9** patient is a gentle or mild air flow."
 11:54:47 **10** Did I read that correctly?
 11:54:48 **11 A.** Yes.
 11:54:48 **12 Q.** What's your basis if you don't know what the
 11:54:51 **13** -- the speed of the air coming out?
 11:54:53 **14 A.** That's just from my opinion in feeling it.
 11:54:59 **15** That's my opinion.
 11:55:00 **16 Q.** Okay. So you have no scientific basis, it's
 11:55:03 **17** just your opinion.
 11:55:04 **18 A.** Correct.
 11:55:04 **19 Q.** Okay.
 11:55:04 **20 A.** Correct. The same as with the "strong," the
 11:55:06 **21** adjective of "strong" with the overhead --
 11:55:08 **22 Q.** Okay.
 11:55:09 **23 A.** -- air.
 11:55:10 **24 Q.** So it's a very subjective opinion; correct?
 11:55:13 **25 A.** Yes.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

95

11:55:14 **1 Q.** There's no methodology behind that opinion.
 11:55:16 **2 A.** That's correct.
 11:55:17 **3 Q.** Okay. You mention about five lines up:
 11:55:22 **4** "The Bair Hugger may be on an IV pole also used by
 11:55:26 **5** anesthesia, or on a rolling cart."
 11:55:28 **6** Did I read that correctly?
 11:55:29 **7 A.** Yes.
 11:55:30 **8 Q.** Have you ever seen the Bair Hugger just
 11:55:31 **9** sitting on the floor?
 11:55:32 **10 A.** No.
 11:55:32 **11 Q.** You've never seen that?
 11:55:34 **12 A.** No.
 11:55:34 **13 Q.** Okay. How often do you see it on a IV pole?
 11:55:38 **14 A.** Depends on the facility --
 11:55:39 **15 Q.** Okay.
 11:55:39 **16 A.** -- and how they want to --
 11:55:40 **17 Q.** How often?
 11:55:43 **18 A.** I can't answer that.
 11:55:44 **19 Q.** How often do you see it on an IV pole in a
 11:55:48 **20** total knee or total hip arthroplasty?
 11:55:50 **21 A.** I can't answer that. I don't have a
 11:55:52 **22** correlation.
 11:55:52 **23 Q.** What color is the rolling cart?
 11:55:55 **24 A.** I believe it's the same color as the device,
 11:55:57 **25** blue.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

96

11:55:58 **1 Q.** Okay. And where is the Bair Hugger usually
 11:56:02 **2** placed in the operating room?
 11:56:03 **3 A.** At the head of the bed.
 11:56:04 **4 Q.** Okay. Well isn't the anesthesiologist
 11:56:07 **5** sitting at the head?
 11:56:08 **6 A.** Yes.
 11:56:08 **7 Q.** Okay. So --
 11:56:10 **8 A.** It's next to or adjacent to him or her.
 11:56:12 **9 Q.** Underneath the bed?
 11:56:14 **10 A.** No, not. Adjacent. And if it's a lower end
 11:56:18 **11** unit it's at the foot.
 11:56:20 **12 Q.** I understand that.
 11:56:21 **13** But for a total hip or total knee where
 11:56:23 **14** you're using an upper body blanket.
 11:56:25 **15 A.** Correct.
 11:56:25 **16 Q.** Okay.
 11:56:26 **17 A.** So it would be adjacent to the machine or
 11:56:27 **18** the cart, depending on how the -- anesthesia's
 11:56:30 **19** assembled their work area.
 11:56:32 **20 Q.** When you say "the machine or the cart"?
 11:56:34 **21 A.** Anesthesia machine or their cart --
 11:56:34 **22 Q.** Okay.
 11:56:36 **23 A.** -- which they usually have for medications.
 11:56:39 **24 Q.** Do you know how long the hose is of the Bair
 11:56:41 **25** Hugger blanket?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

105

12:07:07 **1** **Q.** What'd you provide to defendant to --
 12:07:09 **2** Did you provide the defendant any receipts?
 12:07:11 **3** **A.** I don't recall.
 12:07:11 **4** **Q.** Okay. I mean, the reason why I'm asking is
 12:07:19 **5** I've never seen that done because I've purchased many
 12:07:21 **6** articles.
 12:07:21 **7** **A.** Umm-hmm.
 12:07:22 **8** **Q.** I can't even look at them until I've
 12:07:23 **9** purchase them.
 12:07:24 **10** **A.** Yeah.
 12:07:24 **11** **Q.** So are you under a different plan than
 12:07:27 **12** everyone else in the world?
 12:07:28 **13** **A.** I don't know. I don't remember.
 12:07:29 **14** **Q.** Well it wasn't that --
 12:07:30 **15** **A.** I remember reading them and remembering
 12:07:32 **16** wanting to print, and I had to purchase to print.
 12:07:36 **17** **Q.** Okay. And you don't have those articles
 12:08:00 **18** today with you; correct?
 12:08:01 **19** **A.** Correct.
 12:08:01 **20** **Q.** Were you told not to bring anything today?
 12:08:04 **21** **A.** I asked, and was told I didn't need to.
 12:08:06 **22** **Q.** Okay. Do you think having those articles
 12:08:08 **23** here today would help you better answer the questions
 12:08:11 **24** and review your report?
 12:08:12 **25** **A.** I don't know. I don't -- Can't answer "yes"

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

107

12:09:05 **1** invoice, but that may not have been the date I
 12:09:08 **2** purchased, and I don't have the receipts today.
 12:09:18 **3** **Q.** But you do have the receipts.
 12:09:19 **4** **A.** Yes.
 12:09:20 **5** **Q.** Okay. Well I ask you, please don't destroy
 12:09:26 **6** those receipts. I may subpoena them.
 12:09:28 **7** **A.** Okay.
 12:09:41 **8** MR. ASSAAD: All right. Let's take lunch.
 12:09:45 **9** THE WITNESS: Okay.
 12:09:46 **10** THE REPORTER: Off the record, please.
 12:09:48 **11** (Luncheon recess taken at
12 approximately 12:09 p.m.)
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

106

12:08:15 **1** or "no."
 12:08:15 **2** **Q.** Okay. Well we did talk about one article
 12:08:19 **3** regarding the traffic flow, and you didn't have it
 12:08:21 **4** today, and you wanted to look at --
 12:08:22 **5** **A.** Correct.
 12:08:22 **6** **Q.** -- and you wanted to look at it to answer
 12:08:24 **7** some questions; correct?
 12:08:26 **8** **A.** Correct.
 12:08:26 **9** **Q.** Okay. So you agree with me --
 12:08:28 **10** **A.** To -- To refresh my memory.
 12:08:29 **11** **Q.** So you agree with me that if you had brought
 12:08:31 **12** the articles with you today it might help you refresh
 12:08:34 **13** your memory.
 12:08:34 **14** **A.** It might have.
 12:08:35 **15** MS. LEWIS: She wasn't under an obligation
 12:08:37 **16** to.
 12:08:38 **17** THE WITNESS: Obligation to. I was not
 12:08:39 **18** required or requested to bring them.
 12:08:52 **19** **Q.** And just so I understand, you did not
 12:08:54 **20** purchase these articles before you wrote your report;
 12:08:56 **21** correct?
 12:08:58 **22** **A.** I purchased them -- I don't remember the
 12:09:01 **23** date.
 12:09:02 **24** **Q.** Well according --
 12:09:03 **25** **A.** This is the date that I submitted the

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

108

1 AFTERNOON SESSION
2 (Deposition reconvened at
3 approximately 12:50 p.m.)
4 BY MR. ASSAAD:
 12:50:36 **5** **Q.** Are you ready to continue?
 12:50:37 **6** **A.** Yes. Thank you.
 12:50:48 **7** **Q.** In reviewing your report you have seven
 12:50:52 **8** references; correct?
 12:50:53 **9** **A.** Yes.
 12:50:54 **10** **Q.** And would it be fair to say that all
 12:50:59 **11** statements that you rely on these references you have
 12:51:02 **12** cited in your -- you cite -- you put a footnote in
 12:51:04 **13** your report?
 12:51:05 **14** **A.** Yes.
 12:51:05 **15** **Q.** Okay. And the statements that have no
 12:51:09 **16** references, is that just based on your personal
 12:51:12 **17** opinion?
 12:51:13 **18** **A.** Yes, and knowledge.
 12:51:17 **19** **Q.** And would it be fair to say that the
 12:51:21 **20** statements that do not have any footnotes at the end
 12:51:25 **21** of them in your report of Exhibit 1 you're not relying
 12:51:29 **22** on any literature to support those statements?
 12:51:33 **23** MS. LEWIS: Objection, form.
 12:51:36 **24** **A.** No.
 12:51:37 **25** **Q.** That's not fair?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

113

12:56:25 **1 A.** Yes.

12:56:25 **2 Q.** Okay. Why is that in here?

12:56:28 **3 A.** Just to talk about, again, more of the

12:56:31 **4** equipment that's in the room. The cautery device has

12:56:35 **5** a cooling unit, causes some warmth to the room. The

12:56:42 **6** compression devices have cooling -- have a little fan

12:56:44 **7** to cool the motor. So do the cameras and the light

12:56:47 **8** boxes.

12:56:48 **9 Q.** Okay. You said the electrocautery unit

12:56:50 **10** provides warmth to the room?

12:56:51 **11 A.** No, no, no. It has its own warmth.

12:56:58 **12 Q.** You stated: "The cautery device has a

12:57:00 **13** cooling unit, causes some warmth to the room."

12:57:03 **14 A.** Okay. Let me restate that so it's --

12:57:05 **15** restate it, so it's clearer.

12:57:08 **16** The electrocautery device has its own motor

12:57:10 **17** and cooling device. The fan inside, my understanding,

12:57:14 **18** is to cool the motor, to keep it at normal temp, keep

12:57:19 **19** it at a maintained temperature.

12:57:20 **20 Q.** Okay.

12:57:25 **21 A.** Like a computer fan, if you will.

12:57:27 **22 Q.** Do you know how much airflow that produces?

12:57:28 **23 A.** I do not.

12:57:30 **24 Q.** Do you know whether or not they allow

12:57:32 **25** contaminants to cause surgical-site infections?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

114

12:57:34 **1 A.** I do not.

12:57:35 **2 Q.** Okay. So what's the point of your opinion

12:57:37 **3** here? What's the purpose?

12:57:38 **4 A.** The purpose, again, is to describe the

12:57:40 **5** environment for the patient and all of the devices

12:57:43 **6** that are in the room. It's not a, as you would

12:57:47 **7** describe, sterile environment, it is a clean

12:57:50 **8** environment with lots of pieces of equipment

12:57:52 **9** supporting the patient and near the patient.

12:57:54 **10 Q.** But you have no opinion whether or not, for

12:57:57 **11** example, any of these devices would cause a surgical

12:58:01 **12** site infection.

12:58:02 **13 A.** Correct.

12:58:02 **14 Q.** Okay. I'm just trying to figure out --

12:58:14 **15** I'm representing over 2700 people in the

12:58:17 **16** multidistrict litigation, and I need to understand the

12:58:20 **17** basis for your opinions to determine whether or not

12:58:22 **18** your opinions are reliable. You understand that?

12:58:26 **19 A.** Yes.

12:58:27 **20 Q.** That's why we're here today; correct?

12:58:28 **21 A.** Yes.

12:58:29 **22 Q.** So for lack of, you know, going into

12:58:38 **23** specific detail, is the summation of your opinions

12:58:39 **24** that there are just many equipment and devices in the

12:58:42 **25** operating room and they may or may not be sterile?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

115

12:58:46 **1 A.** Correct.

12:58:47 **2 Q.** Okay. But you're not going to offer any

12:58:51 **3** opinions of whether or not a -- a device that could be

12:58:57 **4** contaminated with bacteria could cause a surgical-site

12:58:59 **5** infection; correct?

12:59:00 **6 A.** Correct.

12:59:00 **7 Q.** Okay. And were you under the impression

12:59:06 **8** that there was a dispute among the parties of whether

12:59:09 **9** or not everything in the operating room was

12:59:10 **10** contaminated or not?

12:59:13 **11 A.** I'm not sure I understand your question.

12:59:14 **12 Q.** Well were you under the impression that the

12:59:16 **13** plaintiffs are alleging that an operating room is

12:59:18 **14** completely sterile?

12:59:21 **15 A.** No, I didn't understand there -- that that

12:59:24 **16** was their premise.

12:59:25 **17 Q.** Well I'm just trying to understand the

12:59:26 **18** purpose of your report, like what are you -- what is

12:59:28 **19** your conclusions besides there are devices and

12:59:32 **20** equipment in the operating room that may or may not be

12:59:34 **21** contaminated?

12:59:38 **22 A.** I'm sorry. Ask the question again. I'm not

12:59:41 **23** sure I'm --

12:59:41 **24 Q.** I've read your --

12:59:42 **25 A.** -- able to answer -- answer your --

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

116

12:59:43 **1 Q.** -- all your opinions in your report --

12:59:46 **2** Or all your opinions are in your report of

12:59:48 **3** Exhibit 1 and your references, and you basically say,

12:59:53 **4** in conclusion, "...it is my expert opinion that the

12:59:55 **5** operating room is a clean, but not completely sterile,

12:59:58 **6** environment."

12:59:59 **7 A.** Correct.

13:00:00 **8 Q.** Okay.

13:00:00 **9 A.** I would agree, yes.

13:00:01 **10 Q.** That bacteria cannot be eliminated from the

13:00:03 **11** operating room environment.

13:00:05 **12 A.** That's correct. I would agree.

13:00:07 **13 Q.** The operating room equipment, including

13:00:09 **14** equipment that will be close to the surgical field,

13:00:12 **15** quote, and are not -- or parentheses, and are not

13:00:14 **16** covered by sterile drapes, closed parentheses, contain

13:00:17 **17** bacteria and are not sterile.

13:00:18 **18 A.** Correct.

13:00:18 **19 Q.** Okay. That's pretty much the sum of your

13:00:20 **20** opinions in this case.

13:00:21 **21 A.** Yes.

13:00:22 **22 Q.** Okay. But, for example, is the anesthesia

13:00:28 **23** machine sterile?

13:00:30 **24 A.** No.

13:00:30 **25 Q.** Okay. Why is that important?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

117

13:00:35 **1** **A.** Why --

13:00:36 **2** **Q.** In this case?

13:00:37 **3** **A.** It's again another piece of equipment that's

13:00:39 **4** brought in close to the patient and could have some

13:00:42 **5** contaminants that are transferred to the patient.

13:00:44 **6** **Q.** How would they be transferred?

13:00:46 **7** **A.** Fingers.

13:00:46 **8** **Q.** Any other way?

13:00:48 **9** **A.** Not that I'm aware of.

13:00:49 **10** **Q.** Well do you agree with me that it would be a

13:00:51 **11** deviation of the standard of care for a surgeon or a

13:00:56 **12** scrub nurse or any of the assistants that are

13:00:58 **13** operating on the -- on the surgical site to touch the

13:01:01 **14** anesthesia machine and then put their hands into the

13:01:03 **15** sterile field?

13:01:04 **16** **A.** Correct. That would be incorrect. That

13:01:05 **17** would not be good practice.

13:01:07 **18** **Q.** Okay. Actually, if a patient got infected,

13:01:10 **19** if a scrub nurse touched the anesthesia machine and

13:01:13 **20** then touched the sterile field and there was an

13:01:16 **21** infection, you'd agree with me that you would probably

13:01:20 **22** testify that that scrub nurse deviated from the

13:01:22 **23** standard of care; correct?

13:01:24 **24** **A.** Yes.

13:01:25 **25** **Q.** Okay. Now let's just assume that doctors

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

118

13:01:31 **1** are doing what they're supposed to be doing and

13:01:33 **2** following the standard of care, and all of the nurses

13:01:35 **3** are following the standard of care. You agree with me

13:01:37 **4** that the fact that the anesthesia machine has bacteria

13:01:40 **5** on it --

13:01:44 **6** **A.** I'm not aware of that it has bacteria on it.

13:01:47 **7** **Q.** Well it can be contaminated, potentially.

13:01:50 **8** **A.** Potentially.

13:01:52 **9** **Q.** Wait.

13:01:53 **10** Do you know whether or not any of the

13:01:55 **11** devices have bacteria on them or not?

13:01:57 **12** **A.** I do not.

13:01:58 **13** **Q.** Okay. But for the -- for patient safety you

13:02:01 **14** assume they do when you teach proper regulations and

13:02:04 **15** procedures in the operating room.

13:02:05 **16** **A.** Yes.

13:02:06 **17** **Q.** Okay. So unless someone -- unless you

13:02:17 **18** transfer any of the potential contaminants on an

13:02:20 **19** anesthesia machine directly to the surgical site, the

13:02:24 **20** -- by contact, you agree with me that unless that

13:02:28 **21** deviation of the standard of care occurs, that the --

13:02:35 **22** there's no way that the bacteria on the anesthesia

13:02:38 **23** machine is going to transfer to the surgical site and

13:02:39 **24** cause an infection; correct?

13:02:41 **25** MS. LEWIS: Objection, form.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

119

13:02:41 **1** **A.** I'm not sure I follow your question.

13:02:44 **2** **Q.** Okay. Okay.

13:02:45 **3** **A.** Try -- I'm trying to follow it.

13:02:47 **4** **Q.** We discussed that the anesthesia machine, if

13:02:49 **5** it is contaminated, that the only way that the

13:02:53 **6** contaminants would be transferred from the anesthesia

13:02:55 **7** machine to the surgical site would be by contact.

13:03:00 **8** **A.** Touch.

13:03:01 **9** **Q.** Okay.

13:03:02 **10** **A.** Yes. We agree.

13:03:03 **11** **Q.** You don't believe that the bacteria could be

13:03:05 **12** aerosolized; correct?

13:03:07 **13** **A.** I don't know if --

13:03:07 **14** **Q.** Okay.

13:03:08 **15** **A.** -- if it could or could not.

13:03:09 **16** **Q.** Okay.

13:03:10 **17** **A.** I don't have that knowledge.

13:03:11 **18** **Q.** Okay. So my point is is that if the -- if

13:03:15 **19** the healthcare providers, the surgeons, the

13:03:20 **20** assistants, the nurses in the operating room are

13:03:23 **21** following the standard of care, the fact that there

13:03:27 **22** may be contaminants on the anesthesia machine is not a

13:03:36 **23** risk factor for causing surgical-site infections

13:03:40 **24** during an operation.

13:03:42 **25** **A.** I --

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

120

13:03:42 **1** MS. LEWIS: Object to the form.

13:03:42 **2** **A.** I don't know that I can answer that.

13:03:44 **3** **Q.** Okay. Do you know whether or not the Bair

13:03:49 **4** Hugger's contaminated?

13:03:51 **5** **A.** I do not.

13:03:52 **6** **Q.** Okay. Were you ever --

13:03:57 **7** Were you ever told by 3M that they concede

13:04:02 **8** that the Bair Hugger is not sterile?

13:04:04 **9** **A.** No. It is not -- It is not sterile.

13:04:10 **10** **Q.** Were you ever told by 3M that they're aware

13:04:12 **11** that the hose of the -- inside the hose of the Bair

13:04:19 **12** Hugger contains or harbors bacteria?

13:04:21 **13** **A.** No.

13:04:22 **14** MS. LEWIS: Objection to form.

13:04:27 **15** **Q.** Did you do a search to find out whether or

13:04:28 **16** not the Bair Hugger contains, or is -- harbors

13:04:33 **17** bacteria?

13:04:33 **18** **A.** Did I do a what?

13:04:34 **19** MS. LEWIS: Same objection.

13:04:36 **20** **Q.** Any research.

13:04:37 **21** **A.** No.

13:04:49 **22** **Q.** You write on page 2, "as each piece" -- at

13:04:58 **23** the bottom of page 2, the last sentence.

13:05:00 **24** **A.** Umm-hmm. Okay.

13:05:01 **25** **Q.** "As each piece of equipment is put into use,

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

121

13:05:04 **1** it is then brought close to the surgical field."
 13:05:07 **2** What's the importance of that?
 13:05:11 **3** **A.** I think... It's just, again, describing the
 13:05:26 **4** lo -- the patient and the patient process in the room
 13:05:30 **5** and how the patient is the center and the equipment
 13:05:32 **6** then is brought in close to support the patient.
 13:05:35 **7** **Q.** Does that have any relevance with respect to
 13:05:37 **8** the risk of infection?
 13:05:38 **9** **A.** Not with just one sentence, no.
 13:05:38 **10** **Q.** Well --
 13:05:41 **11** **A.** No.
 13:05:41 **12** **Q.** -- the fact --
 13:05:41 **13** **A.** No.
 13:05:42 **14** **Q.** The fact that equipment are brought close to
 13:05:44 **15** the patient that -- and brought close to the surgical
 13:05:47 **16** field that may be contaminated, is that relevant to
 13:05:51 **17** the risks of a surgical-site infection?
 13:05:53 **18** MS. LEWIS: Objection to form.
 13:05:54 **19** **A.** Say that question again.
 13:05:55 **20** **Q.** Well I talk --
 13:05:57 **21** You talk about the operating room is clean,
 13:05:59 **22** but not sterile; correct?
 13:06:01 **23** **A.** Umm-hmm.
 13:06:02 **24** **Q.** "Yes"?
 13:06:02 **25** **A.** Yes.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

123

13:06:58 **1** **A.** Is sterile.
 13:06:58 **2** **Q.** Okay.
 13:06:58 **3** **A.** Device. But the machine is not.
 13:07:01 **4** **Q.** Okay. You agree that there is a difference
 13:07:10 **5** between "not sterile" and "contaminated"?
 13:07:14 **6** **A.** There are two different definitions.
 13:07:17 **7** **Q.** Okay. What's your definition of "not
 13:07:18 **8** sterile"?
 13:07:19 **9** **A.** Unsterile. Unsterile and not sterile --
 13:07:24 **10** Unsterile is something that is considered not sterile,
 13:07:27 **11** but it may in fact be clean. Depends on the device.
 13:07:33 **12** Contaminated means it may have gross
 13:07:37 **13** bacteria or gross contamination, spill of blood or
 13:07:40 **14** body fluid.
 13:08:05 **15** **Q.** You mentioned that you're not sure whether
 13:08:07 **16** or not the non-sterile equipment contained bacteria.
 13:08:09 **17** Remember that?
 13:08:10 **18** **A.** Yes.
 13:08:11 **19** **Q.** But if you look at your sentence on page 3
 13:08:13 **20** you say: "The equipment in the operating room
 13:08:15 **21** including equipment that will be close to the surgical
 13:08:18 **22** field (examples, anesthesia machine, electrosurgical
 13:08:22 **23** cautery device, IV poles and pumps, anesthesia cart,
 13:08:25 **24** computer monitors and hard drives, patient warming
 13:08:29 **25** devices, suction bottles, overhead lights, compression

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

122

13:06:05 **1** **Q.** And you're discussing this talking about the
 13:06:06 **2** -- like, devices that are not sterile --
 13:06:09 **3** **A.** Correct.
 13:06:10 **4** **Q.** -- in the operating room; correct?
 13:06:11 **5** **A.** Correct.
 13:06:11 **6** **Q.** And you talk about, you know, devices that
 13:06:13 **7** are not sterile that are brought close to the surgical
 13:06:15 **8** field; correct?
 13:06:17 **9** **A.** Yes.
 13:06:17 **10** **Q.** What's your point?
 13:06:20 **11** **A.** There is no point. I'm just --
 13:06:22 **12** **Q.** Okay.
 13:06:22 **13** **A.** It's a com --
 13:06:22 **14** It's just a statement as is.
 13:06:24 **15** **Q.** Okay. Is it --
 13:06:30 **16** Is it your opinion that it's okay to have
 13:06:34 **17** non-sterile equipment next to the surgical field?
 13:06:38 **18** **A.** When appropriate.
 13:06:40 **19** **Q.** When would it be appropriate?
 13:06:42 **20** **A.** Again, the cautery device, the machine
 13:06:44 **21** itself is not sterile, it's brought up adjacent to the
 13:06:47 **22** sterile field; not touching the drapes, but adjacent
 13:06:50 **23** to it.
 13:06:53 **24** **Q.** But the cautery itself, which goes into the
 13:06:56 **25** surgical -- into the wound, is sterile.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

124

13:08:35 **1** sleeve device, closed parentheses, contain bacteria
 13:08:38 **2** and are not sterile."
 13:08:40 **3** (Interruption by the reporter.)
 13:08:40 **4** **A.** Correct.
 13:08:41 **5** **Q.** So now you -- now you're saying that you are
 13:08:43 **6** -- it's your opinion now that they actually contain
 13:08:46 **7** bacteria?
 13:08:46 **8** **A.** They may contain bacteria, yes.
 13:08:48 **9** **Q.** Well do they may contain or do they contain?
 13:08:50 **10** There's a big difference.
 13:08:51 **11** **A.** May.
 13:08:52 **12** **Q.** "May"?
 13:08:52 **13** **A.** May.
 13:08:53 **14** **Q.** So is that statement wrong then, it should
 13:08:55 **15** say "may"?
 13:08:58 **16** **A.** No. I'm saying they probably do contain
 13:09:00 **17** bacteria.
 13:09:01 **18** **Q.** Well --
 13:09:01 **19** **A.** Yeah.
 13:09:01 **20** **Q.** -- which one is it?
 13:09:02 **21** **A.** We'll say as my statement is written. I do
 13:09:06 **22** not want to change it.
 13:09:07 **23** **Q.** Okay. So now they contain bacteria.
 13:09:08 **24** **A.** Correct.
 13:09:09 **25** **Q.** Not "may" contain, but they contain

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

129

13:12:12 **1** used in a total hip or total knee surgery?

13:12:14 **2** **A.** The whole procedure. The entire procedure.

13:12:18 **3** **Q.** You're telling me they're using an

13:12:20 **4** electrocautery device during the entire procedure?

13:12:22 **5** **A.** Yes.

13:12:23 **6** **Q.** Okay. What does the electrocautery device

13:12:26 **7** do?

13:12:27 **8** **A.** Cauterizes and cuts tissue.

13:12:29 **9** **Q.** Okay. And they're cutting and cauterizing

13:12:30 **10** the entire procedure?

13:12:31 **11** **A.** Yep. Yes.

13:12:33 **12** **Q.** How long does a total hip or total knee

13:12:35 **13** last?

13:12:36 **14** **A.** Depends on the surgeon.

13:12:37 **15** **Q.** In your experience?

13:12:38 **16** **A.** A knee can be an hour or more, and a hip can

13:12:42 **17** be an hour and a half or more.

13:13:08 **18** **Q.** You say computer monitors blow air?

13:13:10 **19** **A.** Yes.

13:13:11 **20** **Q.** And you can -- And you can feel them?

13:13:12 **21** **A.** Yes.

13:13:12 **22** **Q.** Okay.

13:13:13 **23** **A.** The --

13:13:13 **24** **Q.** You don't know --

13:13:14 **25** You don't know the rate, the velocity?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

131

13:14:18 **1** **A.** It's on the side. The ones I've seen it's

13:14:21 **2** been on the side. I -- It's mounted vertically, not

13:14:24 **3** horizontally, and so it's on that, like --

13:14:28 **4** **Q.** Are you seeing --

13:14:30 **5** Like could you see holes on the side of the

13:14:31 **6** --

13:14:31 **7** **A.** Yeah.

13:14:32 **8** **Q.** Okay.

13:14:33 **9** **A.** And the fan --

13:14:34 **10** And the whole round area where the fan sits.

13:14:35 **11** **Q.** And you believe that's on the side of a CPU?

13:14:38 **12** **A.** I don't know if it's the side or the end. I

13:14:40 **13** don't know.

13:14:40 **14** **Q.** Okay. You're -- I mean, you're guessing;

13:14:42 **15** right?

13:14:43 **16** **A.** Well I'm describing what my recollection of

13:14:44 **17** the unit looks like.

13:14:45 **18** **Q.** Okay. Do you have any reason to believe

13:14:47 **19** that that fan could cause contaminants to reach the

13:14:52 **20** surgical site?

13:14:52 **21** **A.** I have no knowledge of that.

13:14:53 **22** **Q.** Okay. What about with respect to the

13:14:56 **23** electrocautery device, do you believe any reason that

13:14:59 **24** fan --

13:15:00 **25** **A.** I have no knowledge of that.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

130

13:13:16 **1** **A.** No. No.

13:13:17 **2** **Q.** Okay. Just out of curiosity, did you go to

13:13:23 **3** an operating room after you'd been retained in this

13:13:25 **4** case to go see what blows air?

13:13:27 **5** **A.** No. No. This is all from my recollection

13:13:29 **6** and memory.

13:13:30 **7** **Q.** Okay. And a hard drive, to you, blows air?

13:13:42 **8** **A.** I'm talking about the little -- the unit

13:13:44 **9** that sits on the floor, the PC unit where you can put

13:13:47 **10** in discs and things. I don't know if that's called

13:13:49 **11** the hard drive or the --

13:13:50 **12** **Q.** Now every computer that I've ever used, --

13:13:53 **13** **A.** Uh-huh.

13:13:54 **14** **Q.** -- like, it sits and the fan's in the back

13:13:56 **15** of the computer; correct?

13:13:58 **16** **A.** Well it's dependent on where that box sits,

13:14:02 **17** if the box is sitting facing the wall or -- or out.

13:14:08 **18** I'm not talking about a laptop, --

13:14:08 **19** **Q.** Understood.

13:14:10 **20** **A.** -- I'm talking about a --

13:14:11 **21** **Q.** A CPU.

13:14:13 **22** **A.** Yes, a CPU. Thank you.

13:14:14 **23** **Q.** And you're saying that you feel --

13:14:16 **24** You agree with me that the fan is usually in

13:14:17 **25** the back.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

132

13:15:16 **1** **Q.** And with respect to all these devices that

13:15:19 **2** potentially blow air, you're relying on your personal

13:15:22 **3** experience and not any literature to support that;

13:15:25 **4** correct?

13:15:25 **5** **A.** Correct.

13:15:36 **6** **Q.** You write here, it is also my expert opinion

13:15:38 **7** that the action of wiping down equipment will

13:15:40 **8** decrease, not eliminate or kill, all the bacterial

13:15:43 **9** load on the surfaces of the equipment.

13:15:45 **10** What are you referring to to support that

13:15:48 **11** statement?

13:15:49 **12** **A.** In my knowledge as an OR nurse we are not as

13:15:53 **13** efficient as we could be in our wiping, or we're not

13:15:56 **14** using the product appropriately.

13:15:59 **15** **Q.** So you're saying it's human error.

13:16:01 **16** **A.** Correct.

13:16:02 **17** **Q.** Okay. And when you say you're not wiping as

13:16:04 **18** efficient or using the product, have you done any

13:16:06 **19** testing or research to see anything?

13:16:07 **20** **A.** No. No.

13:16:09 **21** **Q.** So this is basically a guess on your part.

13:16:11 **22** MS. LEWIS: Objection, form.

13:16:13 **23** **A.** It's from my experience, not -- not as a

13:16:16 **24** guess.

13:16:17 **25** **Q.** Well how do you know? I mean, if you don't

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

133

13:16:19 **1** test the --

13:16:20 **2** **A.** I've observed it. I've observed. From my

13:16:22 **3** observations.

13:16:23 **4** **Q.** But have you done testing?

13:16:24 **5** **A.** No.

13:16:25 **6** **Q.** Have said, like, well let's check the

13:16:26 **7** bacterial load, or do swabs?

13:16:28 **8** **A.** No.

13:16:29 **9** **Q.** Okay. So you're just basically saying, hey,

13:16:31 **10** I see this person clean the operating room, I don't

13:16:35 **11** see them doing a good job, so there might be more

13:16:37 **12** bacteria because of my observation.

13:16:42 **13** **A.** Yes.

13:16:43 **14** **Q.** Okay. No scientific basis at all.

13:16:47 **15** **A.** Correct.

13:17:14 **16** **Q.** On page 3 you talk about the drapes on the

13:17:19 **17** first -- you know, bringing in the drapes into the

13:17:21 **18** operating room.

13:17:21 **19** **A.** Yes.

13:17:22 **20** **Q.** Then you say: "During any procedure that

13:17:24 **21** will involve an implant, traffic into and out of the

13:17:26 **22** room is restricted."

13:17:28 **23** And we talked about that before; correct?

13:17:30 **24** **A.** Yes.

13:17:30 **25** **Q.** But sitting here today you have -- does that

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

135

13:18:33 **1** **A.** Correct.

13:18:33 **2** **Q.** And you do all these procedures to prevent

13:18:36 **3** infection; correct?

13:18:37 **4** **A.** Correct.

13:18:37 **5** **Q.** And that is to limit traffic; correct?

13:18:39 **6** **A.** Yes.

13:18:39 **7** **Q.** To make sure to keep the sterile field as

13:18:43 **8** sterile as possible; correct?

13:18:44 **9** **A.** Yes.

13:18:45 **10** **Q.** So you agree with me that you do these extra

13:18:51 **11** precautions for implant surgeries because they're more

13:18:56 **12** susceptible to infection.

13:18:57 **13** **A.** Not more susceptible. That's not what I

13:18:59 **14** said.

13:19:01 **15** **Q.** Then why do everything if they're not more

13:19:04 **16** susceptible?

13:19:05 **17** **A.** You do it as a precaution to preve -- to

13:19:08 **18** decrease their risk.

13:19:09 **19** **Q.** Why don't you do that for all surgeries,

13:19:10 **20** then?

13:19:11 **21** **A.** That would be a good goal for all surgeries.

13:19:14 **22** **Q.** Why not? Why for total hip and total knee

13:19:16 **23** and not for colorectal?

13:19:20 **24** **A.** Good question. I don't have an answer for

13:19:21 **25** that.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

134

13:17:33 **1** have anything to do with contamination of the drapes?

13:17:35 **2** **A.** No.

13:17:36 **3** **Q.** Okay. Can bacteria go through -- get

13:17:40 **4** through the drapes?

13:17:41 **5** **A.** Not to my knowledge, but I'm not the

13:17:43 **6** researcher that would know that answer.

13:17:48 **7** **Q.** I mean, from what I am reading here, there's

13:17:52 **8** something different about an implant surgery, whether

13:17:56 **9** it's a breast implant or hernia, than many other types

13:18:01 **10** of surgeries; correct?

13:18:02 **11** **A.** Yes, in the traffic --

13:18:02 **12** **Q.** Okay.

13:18:04 **13** **A.** -- restrictions, traffic restrictions.

13:18:05 **14** **Q.** And I assume that is because those types of

13:18:07 **15** surgeries, those implants are very susceptible to

13:18:10 **16** infection.

13:18:11 **17** **A.** No. That's not my answer.

13:18:15 **18** **Q.** Well then why care?

13:18:17 **19** **A.** Because those procedures are more difficult

13:18:21 **20** for the patient if they have to come back for a

13:18:25 **21** different procedure.

13:18:26 **22** **Q.** Why would they have to come back?

13:18:27 **23** **A.** If in fact the implant is infected.

13:18:30 **24** **Q.** Okay. So you don't want the implant to get

13:18:32 **25** infected; correct?

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

136

13:19:22 **1** **Q.** So you just want to talk about what you do

13:19:24 **2** for these total hip and total knee, but you have no

13:19:27 **3** idea why you do it?

13:19:28 **4** MS. LEWIS: Objection, form.

13:19:29 **5** **A.** That isn't what I said.

13:19:31 **6** **Q.** Well tell me why you do it.

13:19:33 **7** **A.** It's based on good literature.

13:19:36 **8** **Q.** Are the total hip patients more important

13:19:38 **9** than the colorectal patients?

13:19:40 **10** **A.** No.

13:19:41 **11** **Q.** Okay. Are they more important than the eye

13:19:43 **12** surgery patients?

13:19:44 **13** **A.** No.

13:19:44 **14** **Q.** Are they more important than the -- you

13:19:47 **15** know, what a -- what a ENT does, like some other

13:19:49 **16** surgery that they do?

13:19:50 **17** **A.** No.

13:19:50 **18** **Q.** Okay. So why -- why give them better

13:19:53 **19** precautions and do more for a total hip or total knee

13:19:57 **20** than you do for other types of surgeries?

13:19:59 **21** **A.** It's not better or worse.

13:20:02 **22** **Q.** Well you are doing way more things -- I

13:20:04 **23** mean, you're not allowing peo -- you're restricting

13:20:07 **24** access to the operating room; correct?

13:20:09 **25** **A.** Correct.

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

145

13:26:53 **1** contaminate the implant because it may cause a
 13:26:55 **2** surgical-site infection.
 13:26:55 **3** **A.** Correct.
 13:27:50 **4** **Q.** On page 4, under the patient flow in the
 13:27:53 **5** operating room, I guess that's what you meant by
 13:27:55 **6** "flow," "patient flow."
 13:27:56 **7** **A.** Correct.
 13:27:57 **8** **Q.** Okay.
 13:27:57 **9** **A.** I probably should have used a different
 13:27:59 **10** word, but yes. Patient process.
 13:28:02 **11** **Q.** You write on the second paragraph under
 13:28:04 **12** there, the device is -- you talk about compression
 13:28:06 **13** stockings.
 13:28:08 **14** **A.** Yes.
 13:28:08 **15** **Q.** It says: "This device is used to decrease
 13:28:10 **16** the risk of post-operative deep vein thrombosis" or
 13:28:14 **17** "blood clot"?
 13:28:15 **18** **A.** Yes.
 13:28:16 **19** **Q.** What does that have to do with any of the
 13:28:18 **20** issues in this case?
 13:28:19 **21** **A.** I'm talking about, again, the patient flow,
 13:28:20 **22** all of the pieces of equipment that are used on the
 13:28:22 **23** patient in support of the patient during their
 13:28:24 **24** surgical procedure.
 13:28:26 **25** **Q.** What does that have to do with the issues in
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

146

13:28:27 **1** this case?
 13:28:27 **2** **A.** It's also another device that has a fan.
 13:28:32 **3** **Q.** A compression stocking?
 13:28:33 **4** **A.** The device, yes.
 13:28:35 **5** **Q.** What device of a compression stocking has a
 13:28:38 **6** fan?
 13:28:38 **7** **A.** It's a little motor that sits either on an
 13:28:40 **8** IV pole or on a stand or on the floor, and it blow --
 13:28:45 **9** inflates a stocking on the patient's leg during the
 13:28:48 **10** procedure.
 13:28:49 **11** **Q.** But then it stops.
 13:28:51 **12** **A.** At the end of the procedure.
 13:28:53 **13** **Q.** It keeps on --
 13:28:54 **14** **A.** It runs dur -- It runs during the whole
 13:28:55 **15** procedure.
 13:28:55 **16** **Q.** It keeps on inflating the entire time?
 13:28:58 **17** **A.** Inflates and deflates and inflates, so sort
 13:29:02 **18** of massaging the leg, yes. And will be used on the
 13:29:04 **19** nonoperative leg.
 13:29:05 **20** **Q.** Okay. Do you know whether or not they're
 13:29:06 **21** used on total hip and total knee?
 13:29:08 **22** **A.** I would say yes, on the nonoperative leg.
 13:29:11 **23** **Q.** Okay. Is it used perioperatively?
 13:29:18 **24** **A.** Yes.
 13:29:18 **25** **Q.** Okay. So it's your opinion --
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

147

13:29:19 **1** **A.** And it may also be used postoperatively.
 13:29:21 **2** **Q.** And sitting here today --
 13:29:23 **3** Do you know whether or not they're used by
 13:29:24 **4** all surgeons during --
 13:29:25 **5** **A.** I do not.
 13:29:27 **6** **Q.** Okay.
 13:29:27 **7** **A.** I do not.
 13:29:29 **8** **Q.** By the way, have you ever worked outside of,
 13:29:30 **9** like, the Maryland region?
 13:29:33 **10** **A.** Massachusetts and New Jersey.
 13:29:34 **11** **Q.** Okay. Was that --
 13:29:36 **12** At what point in your life?
 13:29:38 **13** **A.** The last two years.
 13:29:39 **14** **Q.** Okay. As a nurse?
 13:29:40 **15** **A.** Yes.
 13:29:41 **16** **Q.** Okay. But you agree with me that this case
 13:29:47 **17** is not about blood clots.
 13:29:48 **18** **A.** Correct.
 13:29:48 **19** **Q.** Okay.
 13:29:49 **20** **A.** Correct.
 13:29:53 **21** **Q.** Was one of your objectives in writing your
 13:29:57 **22** report is to go through an operating room and identify
 13:30:02 **23** everything that may blow air?
 13:30:04 **24** **A.** No. It's to describe the -- again, the
 13:30:08 **25** patient process.
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

148

13:30:08 **1** **Q.** Why is blowing air important? Why is that
 13:30:11 **2** relevant?
 13:30:13 **3** **A.** Irrelevant?
 13:30:13 **4** **Q.** No. Why is it relevant to your --
 13:30:16 **5** I mean, you've listed all these things that
 13:30:17 **6** may blow air. Why is it relevant to your opinions?
 13:30:20 **7** **A.** It's relevant whether or not the dis --
 13:30:22 **8** there's a disruption to the flow, the positive flow
 13:30:25 **9** for the -- around the patient and the surgical site.
 13:30:28 **10** **Q.** But you're not an engineer that could
 13:30:30 **11** determine that; correct?
 13:30:31 **12** **A.** Correct.
 13:30:31 **13** **Q.** Okay. Did you do any research to determine
 13:30:37 **14** whether -- whether or not any of these devices that
 13:30:40 **15** blow air have any effect on the airflow in an
 13:30:45 **16** operating room?
 13:30:46 **17** **A.** No.
 13:30:46 **18** **Q.** Okay. Were you --
 13:30:48 **19** I mean, was that part of your objective is
 13:30:50 **20** -- objectives in this case is to identify all the
 13:30:52 **21** equipment that blow air?
 13:30:53 **22** **A.** No.
 13:30:53 **23** **Q.** You just decided to come up with that on
 13:30:55 **24** your own?
 13:30:56 **25** **A.** No. I'm just, again, describing all of the
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

165

13:58:20 **1** And sitting here today if I asked you about
 13:58:22 **2** any of the articles cited in Kellam that they
 13:58:26 **3** reviewed, the literature, you would not be able to
 13:58:28 **4** answer because you did not review them.
 13:58:30 **5** **A.** Correct.
 13:59:08 **6** **Q.** Did you even ask for any of the plaintiffs'
 13:59:10 **7** expert reports besides the orthopedic surgeon, Dr.
 13:59:14 **8** Stonnington?
 13:59:15 **9** MS. LEWIS: Objection, form, to any
 13:59:16 **10** discussions with counsel.
 13:59:21 **11** **A.** No.
 13:59:25 **12** **Q.** You did not see plaintiffs' computational
 13:59:30 **13** fluid dynamics expert's report; correct?
 13:59:33 **14** **A.** Correct.
 13:59:33 **15** **Q.** Which shows the airflow similar to the
 13:59:36 **16** airflow that you saw; correct?
 13:59:37 **17** **A.** Correct.
 13:59:39 **18** **Q.** Would you --
 13:59:39 **19** Would you have taken that into consideration
 13:59:42 **20** if the plaintiffs' report, which was done by one of
 13:59:46 **21** the leading experts in particle flow in the United
 13:59:49 **22** States, showed that the Bair Hugger does cause
 13:59:51 **23** significant particle increase over the surgical site?
 13:59:54 **24** MS. LEWIS: Objection, form.
 13:59:55 **25** **A.** Take it into consideration for --
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

166

13:59:57 **1** **Q.** In your opinions of whether or not the Bair
 13:59:58 **2** Hugger is safe.
 13:59:59 **3** **A.** No.
 13:59:59 **4** MS. LEWIS: Objection, form.
 14:00:01 **5** **A.** I don't have an opinion on that. I'm not
 14:00:03 **6** that kind of expert.
 14:00:04 **7** **Q.** I understand that, but you looked at an
 14:00:06 **8** airflow that was provided to you by the defense;
 14:00:08 **9** correct?
 14:00:09 **10** **A.** Correct.
 14:00:09 **11** **Q.** Okay. Have you ever consulted for 3M
 14:00:16 **12** before?
 14:00:16 **13** **A.** No.
 14:00:17 **14** **Q.** Have you ever worked for 3M?
 14:00:18 **15** **A.** No.
 14:00:37 **16** **Q.** Please help me understand what exactly --
 14:00:42 **17** what exact methodology that you looked at or did to
 14:00:51 **18** determine that the -- that the Bair Hugger is safe
 14:01:10 **19** besides your predisposed determination based on your
 14:01:14 **20** experience.
 14:01:15 **21** MS. LEWIS: Objection, form.
 14:01:16 **22** **A.** From -- I believe I cite AORN as a
 14:01:21 **23** recommendation, and the articles that I have attached,
 14:01:28 **24** used.
 14:01:28 **25** **Q.** Well you've been a nurse for a long time;
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

167

14:01:29 **1** correct?
 14:01:30 **2** **A.** Correct.
 14:01:30 **3** **Q.** And recommendations change; correct?
 14:01:31 **4** **A.** Yes. They're updated.
 14:01:34 **5** **Q.** Okay. Certain things become -- science
 14:01:38 **6** advances and things that were thought were good for
 14:01:40 **7** patients were decided they weren't good for patients
 14:01:43 **8** any more; correct?
 14:01:44 **9** **A.** That's correct.
 14:01:44 **10** **Q.** I mean we could talk about, you know,
 14:01:47 **11** preparing the skin of the patient; correct?
 14:01:49 **12** **A.** Correct.
 14:01:49 **13** **Q.** Some things they thought were good they
 14:01:51 **14** realized they weren't good and they've changed them;
 14:01:53 **15** correct?
 14:01:54 **16** **A.** Correct.
 14:01:54 **17** **Q.** Okay. So just -- besides looking at AORN,
 14:02:01 **18** did you do any -- did you create any -- Strike that.
 14:02:04 **19** Besides looking at the literature, did you
 14:02:08 **20** yourself apply any independent thought and formulate
 14:02:12 **21** your own opinions with respect to the safety of Bair
 14:02:14 **22** Hugger?
 14:02:15 **23** **A.** No.
 14:02:15 **24** MS. LEWIS: Objection, form.
 14:02:17 **25** Gabe, I mean, you can keep going down this
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

168

14:02:19 **1** road, but she's not offering an expert opinion on the
 14:02:22 **2** safety of the Bair Hugger. There's no expert opinion
 14:02:25 **3** in her report on the safety of the Bair Hugger.
 14:03:02 **4** **Q.** If you look at page 4. It states:
 14:03:04 **5** "Research has shown forced-air warming devices to be
 14:03:06 **6** safe for use in the operating room."
 14:03:08 **7** **A.** Yes.
 14:03:09 **8** MR. ASSAAD: If you're willing to cross
 14:03:10 **9** that statement out, stipulate to cross that out,
 14:03:12 **10** I'll stop asking.
 14:03:12 **11** MS. LEWIS: It's a statement, it's not an
 14:03:14 **12** opinion. It's a statement. It's not an expert
 14:03:25 **13** opinion. It doesn't say, "it is my expert opinion
 14:03:28 **14** that." So she's not offering expert opinions on the
 14:03:31 **15** safety of the Bair Hugger.
 14:03:34 **16** BY MR. ASSAAD:
 14:03:34 **17** **Q.** On page 4, last paragraph, you talk about
 14:03:57 **18** the antiseptic solution to decrease the transient
 14:04:06 **19** bacteria on the skin of a patient.
 14:04:06 **20** **A.** Yes.
 14:04:06 **21** **Q.** Are you going to offer any opinions with
 14:04:08 **22** respect to the different types of antiseptic
 14:04:15 **23** solutions?
 14:04:15 **24** **A.** No.
 14:05:01 **25** MR. ASSAAD: And Ms. Lewis, I assume that
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

169

14:05:03 **1** she's not going to offer any opinions on the efficacy
 14:05:05 **2** of Bair Hugger; correct?
 14:05:07 **3** MS. LEWIS: I mean, she's not offering
 14:05:09 **4** expert opinions on the efficacy or safety.
 14:05:11 **5** MR. ASSAAD: Okay. Just -- Because she
 14:05:13 **6** keeps on saying it. I want to make sure, if there's
 14:05:16 **7** reference to it in her report that --
 14:05:18 **8** MS. LEWIS: Not with respect to an expert
 14:05:20 **9** opinion. I mean, if you want us to stipulate?
 14:05:22 **10** MR. ASSAAD: Yes.
 14:05:22 **11** MS. LEWIS: I'm saying there's not -- she's
 14:05:24 **12** not offering an expert opinion on the safety of the
 14:05:26 **13** Bair Hugger.
 14:05:27 **14** MR. ASSAAD: Or efficacy.
 14:05:28 **15** MS. LEWIS: Or efficacy.
 14:05:29 **16** MR. ASSAAD: Okay.
 14:05:29 **17** BY MR. ASSAAD:
 14:05:45 **18** **Q.** Are you going to offer opinions on draping
 14:05:47 **19** of a -- in a total knee or total hip arthroplasty?
 14:05:50 **20** **A.** No.
 14:06:05 **21** **Q.** You say here that: "Sterile light handle
 14:06:07 **22** covers may be attached to the surgical lights by any
 14:06:10 **23** team member."
 14:06:11 **24** **A.** Correct.
 14:06:12 **25** **Q.** Is that what we talked about before for the
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

170

14:06:14 **1** handles of the lights?
 14:06:17 **2** **A.** Correct.
 14:07:06 **3** **Q.** On page 5, fourth paragraph from the bottom
 14:07:10 **4** you state: "During the surgical procedure, the
 14:07:13 **5** surgeon and the scrub nurse stand across the operating
 14:07:16 **6** room bed from each other. Throughout the procedure,
 14:07:18 **7** the surgical team is passing instruments and sponges
 14:07:20 **8** back and forth across the surgical site which can
 14:07:23 **9** potentially create air current disturbances."
 14:07:26 **10** What's your basis behind that?
 14:07:29 **11** **A.** Observations. Just watching instruments
 14:07:32 **12** being handled back and forth I know there's some
 14:07:34 **13** changes.
 14:07:35 **14** **Q.** Well that's obvious because you're moving to
 14:07:37 **15** perform an operation.
 14:07:38 **16** **A.** Absolutely.
 14:07:40 **17** **Q.** But why do you think it causes air current
 14:07:42 **18** disturbances? What's your basis?
 14:07:44 **19** **A.** Just my own personal knowledge.
 14:07:46 **20** **Q.** Have you measured --
 14:07:46 **21** **A.** No, --
 14:07:46 **22** **Q.** -- any air --
 14:07:46 **23** **A.** -- I have not.
 14:07:48 **24** **Q.** Have you felt any air current disturbances?
 14:07:50 **25** **A.** No.
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

171

14:07:50 **1** **Q.** So would it be fair to say that you really
 14:07:53 **2** have no scientific basis to support that statement?
 14:07:55 **3** **A.** Other than my own observations.
 14:07:57 **4** **Q.** Well an obser -- Is that a scie --
 14:07:59 **5** Is your observation a scientific basis?
 14:08:01 **6** **A.** No.
 14:08:02 **7** **Q.** Okay. So you agree with me that there's no
 14:08:04 **8** scientific basis to support that observa -- to support
 14:08:07 **9** that statement; correct?
 14:08:07 **10** **A.** There's no research or a scientific basis
 14:08:09 **11** that I know of.
 14:08:09 **12** **Q.** So the --
 14:08:10 **13** **A.** There may be some.
 14:08:11 **14** **Q.** So the answer to my question previously is
 14:08:13 **15** "correct."
 14:08:13 **16** **A.** Yes.
 14:09:00 **17** **Q.** Are you aware that there are orthopedic
 14:09:05 **18** surgeons that do not use the Bair Hugger?
 14:09:09 **19** **A.** Not in my practice in my experience.
 14:09:12 **20** They've all used them.
 14:09:55 **21** **Q.** In the Kellam paper it states that inad --
 14:10:00 **22** inadvertent perioperative hypothermia is defined as a
 14:10:03 **23** core body temperature of less than 36 degrees, and
 14:10:05 **24** that's different than what you said of 37.
 14:10:07 **25** **A.** I will -- I will defer to the experts. I
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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

172

14:10:10 **1** don't know.
 14:10:11 **2** **Q.** Okay.
 14:10:17 **3** **A.** I believe I said there was a range that was
 14:10:20 **4** usually defined by anesthesia.
 14:11:00 **5** **Q.** Do you consider everything that AORN
 14:11:02 **6** publishes authoritative?
 14:11:05 **7** **A.** Yes. That's a strong word, but yes.
 14:11:10 **8** **Q.** So AORN's never wrong.
 14:11:12 **9** **A.** No.
 14:11:13 **10** **Q.** Even though they may change, from time to
 14:11:16 **11** time, their recommendations.
 14:11:17 **12** **A.** Correct.
 14:11:18 **13** **Q.** Okay. But AORN doesn't perform scientific
 14:11:55 **14** studies, they just do mostly literature reviews;
 14:11:58 **15** correct?
 14:11:59 **16** **A.** Correct.
 14:12:00 **17** **Q.** Because AORN is basically a nursing
 14:12:04 **18** organization; correct?
 14:12:05 **19** **A.** Professional, yes. Professional nursing
 14:12:09 **20** organization.
 14:12:10 **21** **Q.** Okay. So my understanding is AORN is --
 14:12:24 **22** rarely -- rarely publishes, like, peer-reviewed
 14:12:27 **23** literature regarding scientific studies.
 14:12:28 **24** MS. LEWIS: Objection, form.
 14:12:29 **25** **A.** Their journal is a peer-reviewed journal
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